

CWP-18024-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18024-2019

Date of Decision: 8th July, 2019

Murari Lal

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sudhanshu Makkar, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 01.04.2019 (Annexure P-3) passed by the Financial Commissioner, Haryana – respondent No.1, upholding the order dated 22.11.2016 (Annexure P-2) passed by the Commissioner, Hisar Division, Hisar – respondent No.2 in an appeal preferred by respondent No.4 – Anil Kumar, whereby, order dated 26.08.2014 (Annexure P-1) passed by the Collector, Bhiwani – respondent No.3 appointing the petitioner as Lambardar has been set aside and the case remanded back to the Collector for fresh decision.

2. It is the contention of the learned counsel for the petitioner that it is a settled proposition of law that the choice of the Collector appointing a person as Lambardar should not be interfered with. He contends that the Commissioner, while exercising the powers of Appellate Authority, vide impugned order dated 22.11.2016 (Annexure P-2), has set aside a well-

reasoned order of the Collector appointing the petitioner as Lambardar of village Bhurtana, Tehsil Tosham, District Bhiwani. His assertion is that, as a matter of fact, 54 kanal of land which is alleged to have been inherited by respondent No.4-Anil Kumar, which was made one of the reasons for setting aside the order passed by the Collector, is a misstatement on the part of respondent No.4-Anil Kumar, as he had transferred the said land in the name of his mother subsequently vide mutation No.2692 dated 23.07.2014 (Annexure P-5). He, thus, contends that the person, who has misstated before the Commissioner, cannot be said to be a suitable candidate for consideration for appointment to the post of Lambardar. He contends that the reasons which have been assigned by the Collector for setting aside the order passed by the Collector are not sustainable and therefore, the findings which have been recorded and the observations made therein would leave virtually no scope for consideration on merits. He, thus, contends that the order passed by the Commissioner, Hisar Division, Hisar, dated 22.11.2016 (Annexure P-2) and the order passed by the Financial Commissioner, Haryana, dated 01.04.2019 (Annexure P-3) cannot sustain.

3. I have considered the submissions made by the learned counsel for the petitioner and with his able assistance have gone through the records of the case including the impugned orders.

4. Perusal of the impugned orders as also the order passed by the Collector would show that the Collector, while passing the order dated 26.08.2014 (Annexure P-1), has only referred to the agricultural land of the petitioner as well as of respondent No.4 and has not taken into consideration

their educational qualifications or the age etc., therefore, the observations of the Commissioner and that of the Financial Commissioner cannot be faulted with. The factum with regard to 54 kanal which have been referred to in the order passed by the Commissioner, Hisar Division, Hisar, dated 22.11.2016 (Annexure P-2), which has been inherited by respondent No.4- Anil Kumar during the pendency of the proceedings for appointment to the post of Lambardar and transfer thereof to his mother has not been taken into consideration by the authorities. If the same is correct, the same may be considered by the Collector and appropriate reference and decision taken in this regard including that of the misstatement as has been alleged by the counsel for the petitioner.

5. The assertion of the counsel for the petitioner that the observations made by the Commissioner and the Financial Commissioner, Haryana, in the impugned orders dated 22.11.2016 and 01.04.2019 (Annexures P-2 and P-3 respectively) would virtually leave no scope for the Collector for decision on merits, suffice it to say that these observations have only been made for the purpose of justifying their order, however, it is clarified that these observations shall have no bearing on the merits of the respective candidates, which have to be considered by the Collector as per the remand order passed by the Commissioner, Hisar Division, Hisar which has been upheld by the Financial Commissioner, Haryana.

6. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

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7. The Collector shall independently assess the respective claims of the petitioner and the others as per the statutory rules and instructions issued by the Government of Haryana from time to time and pass appropriate speaking orders.

8th July, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No