

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.15898 of 2019
Date of decision :10.12.2019**

Tarsem Lal

.....Petitioner

Vs.

**The Financial Commissioner (Appeals), Punjab and others
.....Respondents**

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present:- Mr.R.S.Chauhan, Advocate for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 09.01.2014 (Annexure P-1) passed by the District Collector, Hoshiarpur-respondent No.3 appointing respondent No.4-Kashmir Kaur as scheduled caste Lambardar of Village Bassi Jamal Khan, Tehsil and District Hoshiarpur and the order dated 11.02.2019 (Annexure P-6) passed by the Financial Commissioner Punjab, Chandigarh, whereby, the revision petition preferred by the petitioner challenging the order dated 30.01.2017 (Annexure P-3) passed by Commissioner, Jalandhar Division, Jalandhar-respondent No.2, vide which the appointment of respondent No.4-Kashmir Kaur was set aside and the petitioner was appointed as Lambardar in her place, has been set aside.

It is the contention of the learned counsel for the petitioner that respondent No.4 was Sarpanch of the village at the time when she applied for the post of Lambardar. He contends that merely because she was a Sarpanch, obviously would not be a ground for making her ineligible for consideration for appointment to the post of Lambardar but there were various complaints against her working and she was not found available in the village as and when some work had to be performed. Assertion has also been made with regard to

the compromise which has been entered into in a Civil Suit dated 22.05.2014 (Annexure P-8) where she had put to auction a ground of the Gram Panchayat which was left out in the consolidation proceeding where she had acknowledged the fact that she could not have done so. He thus, contends that a person who is incapable of performing the responsibilities of a Sarpanch and violates the provisions of statute cannot be said to be a suitable candidate for appointment to the post of Lambardar. He thus, contends that the order as passed by the Commissioner having been based upon proper appreciation of the facts and circumstances should not be interfered with by the Financial Commissioner. Assertion has also been made that in case, the Financial Commissioner came to a conclusion that the order of the Commissioner dated 30.01.2017 (Annexure P-3) was not in accordance with law, then the matter should have been remanded back to the Commissioner for fresh consideration instead of setting aside the same and restoring the order of Collector appointing respondent No.4 as a Lambardar.

I have considered the submissions made by learned counsel for the petitioner and with his assistance have gone through the impugned order passed by the Commissioner dated 30.01.2017 (Annexure P-3) as also the orders passed by the Collector dated 09.01.2014 (Annexure P-1) appointing respondent No.4 as a Lambardar of the village and the order dated 11.02.2019 (Annexure P-6) passed by the Financial Commissioner, Punjab and do not find myself in agreement with the contention as raised by the counsel for the petitioner.

The settled propositions of law as far as the appointment of Lambardar is concerned is that the Collector being an appointing authority and being officer in the field having the benefit of assessing the comparative merits

subordinate revenue authorities assesses the personal capability of the candidates who appear before him. He is therefore, the best judge to evaluate the suitability of candidates to the post of Lambardar. It is also settled proposition of law that the appellate Authority as well as revisional authority can only interfere in the order passed by Collector in case there is any perversity, illegality or patent violation of any statutory rules including the violation of the principle of natural justice. None of these have been found to be the reasons for setting aside the well considered order dated 09.01.2014 (Annexure P-1) passed by the Collector. The order of the Commissioner when read as a totality, apouling and considering the reasons which had weighed in the mind of the Commissioner is really shocking as he had discriminated against the respondent No.4 vis-a-vis the petitioner on the basis of gender. Strangely enough, motherhood of a woman has been adversely commented upon. Having children has been treated as a taboo and has been taken as a ground for holding her ineligible for appointment to the post of Lambardar. The reasoning assigned for setting aside the order passed by the Collector in the order dated 30.01.2017 (Annexure P-3) apart from this aspect also is unsustainable. Financial Commissioner, Punjab, has rightly appreciated the statutory provisions as provided for appointment to the post of Lambardar and has given reasons for upholding the order passed by the Collector which cannot be faulted with. The order impugned being in accordance with law do not call for any interference by this Court.

The writ petition therefore stands dismissed.

10.12.2019
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(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned = Yes/No.

Whether reportable= Yes/No.

