

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

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Civil Writ Petition No.17806 of 2019

Date of Decision: July 5th, 2019

Tehal Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sunil Kumar Nehra, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 03.10.2017 (Annexure P-3) passed by the Collector, Sirsa, whereby the petitioner, who was working as a Lambardar of Village Kurungawali, District Sirsa, has been removed from the said post on the ground that he had identified two dead persons, appeal against which preferred by the petitioner stands dismissed by the Commissioner, Hisar Division (Camp at Sirsa) vide order dated 06.03.2018 (Annexure P-4).

2. It is the contention of learned counsel for the petitioner that the petitioner, who was working as a Lambardar of Village Kurungawali, Tehsil and District Sirsa, could not have been removed from the said post merely because of the registration of two FIRs against him. He so asserts in the light of the fact that mere registration of an FIR or filing of a complaint would not be enough for terminating the services of a Lambardar. He asserts that since the FIRs, which were registered against the petitioner along with others i.e. the beneficiaries, stood quashed by this Court, there was no stigma attached to the petitioner. In support of this assertion, he has placed reliance upon the order dated 15.05.2015 passed in CRM-M-5106 of 2015 titled as Balkaran Singh Versus State of Haryana and others

(Annexure P-1), wherein FIR No.106 dated 12.08.2014 registered under Sections 420, 467, 468, 471 and 120-B IPC at Police Station Rori, Police District Sirsa, stood quashed on the basis of a compromise in the shape of affidavit dated 30.01.2015 and the order passed by this Court in *Balkaran Singh Versus State of Haryana and others* decided on 01.07.2015 (Annexure P-2), wherein FIR No.105 dated 12.08.2014 registered under Sections 420, 467, 468, 471, 120-B IPC at Police Station Rori, District Sirsa, stood quashed on the basis of a compromise. He places reliance upon the judgment of this Court in *Kashmiri Lal Versus Financial Commissioner Appeals-II, Chandigarh and others 2012 (57) R.C.R. (Civil) 208* as also *Shiv Dayal Versus The Financial Commissioner Haryana and others 2007 (27) S.C.T. 167*, where this Court had held that mere registration of an FIR or filing of a complaint cannot be a disqualification or if the person is acquitted, he would be entitled to the benefit. He contends that on the quashing of the FIR, the allegation against the petitioner stood washed and, therefore, the petitioner is entitled to be given the benefit of the judgment passed by this Court. The impugned orders, thus, cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the records of the case as well as the judgments, on which he has placed reliance.

4. There can be no dispute as regards the judgment which have been referred to by the counsel for the petitioner, where it has been held that merely because of filing of a complaint, a candidate would not be rendered disqualified. The qualification which has been put by the Court is that it should be culminating in the conviction. Similar is the preposition as laid

down in Kashmiri Lal's case (*supra*), where this Court has further gone to the extent of holding that it is only on conviction that a person can be held to be liable for removal as it would entail stigma.

5. Present is a case where petitioner has identified two persons, who were dead much prior to the date on which they were identified by him for the registration of a sale deed. The said conduct of the petitioner led to the registration of two separate FIRs. Merely because the FIRs have been quashed and that too on the basis of a compromise, which has been entered into between the parties, would not exonerate the petitioner of his conduct, especially when the facts stood established beyond doubt on the basis of documentary evidence that the persons, who had been identified by the petitioner as alive and executed the sale deeds, had died much prior to the said identification by the petitioner. As is apparent from the order passed by the authorities below, petitioner has identified the seller Smt. Prameshwari Devi at the time of registration of sale deed on 20.05.2014, whereas she had already died on 29.02.1996 and Pirthi Raj in a sale deed registered on 06.06.2014, where the person had died on 29.07.1991. The land of the dead persons were transferred to the purchaser on the basis of wrongful identification of fake landowner.

6. The operative part of the order dated 06.03.2018 (Annexure P-4) passed by the Commissioner reads as follows:-

“5. The dismissal of Lambardar is governed by rule 16(f), where it is clearly written that anybody thoroughly negligent in discharge of duties or incompetent persons can be dismissed. It is a case of fraud and there is huge negligence as well as incompetency on the part of Lambardar. The society does not want such Lambardar, who identified the wrong persons as landowners, who are already dead.

Otherwise there will be a sunami of land frauds. The country does not want such Lambardar, who does not know which persons are dead and does not identify those persons before any Magistrate or before any Sub-Registrar or Joint Sub-Registrar.

6. It is not a case of what is the extent of guilt of appellant. It is a proved case of thorough negligence and incompetency. So, the order of Collector is justified.”

7. This being the factual position and established on the basis of the record, the authorities have rightly proceeded to come to a conclusion that the petitioner has not performed his duties properly. The responsibility which has been put on the person like Lambardar has to be carried out in a most responsible manner. The conduct of the petitioner requires no further comment on this aspect. The impugned orders, therefore, passed by the authorities below, cannot be faulted with.

8. The writ petition, therefore, stands dismissed.

July 5th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No