

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

107+222

CM No.18245 of 2018 and
Civil Writ Petition No.1036 of 2018 (O&M)

Date of Decision: January 8th, 2019

Gurmeet Singh

...Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Jatinderpal Singh, Advocate
for the applicant-petitioner.

Ms. Kanica Sachdeva, Assistant Advocate General, Punjab,
for respondents No.1 to 3.

Mr. D.N. Ganeriwala, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.18245 of 2018

Prayer in this application is for placing on record the
replication to the written statement filed by respondent No.4.

Application is allowed subject to just exceptions.

Replication is taken on record.

CWP No.1036 of 2018

Petitioner has approached this Court challenging the
order dated 20.12.2017 (Annexure P-6) passed by the
Financial Commissioner, Punjab, Chandigarh, whereby the case has been
remanded to the District Collector, Sri Muktsar Sahib, on the ground that a
show cause notice has been issued to the petitioner on 11.08.2017, wherein
it has been asserted by Sukhminder Singh that the petitioner is involved in a
case of power theft/tampering with electricity meter and a defaulter of

2. It is the contention of learned counsel for the petitioner that petitioner was appointed as a Lambardar on 02.06.2016 by the District Collector, Sri Muktsar Sahib. Challenge to the said appointment by respondent No.4 has been rejected by the Commissioner, Ferozepur Division, Ferozepur, but in the revision petition, the Financial Commissioner (Appeals), Punjab-respondent No.1 has remanded the case back and that too on a simple assertion of respondent No.4 that the petitioner is involved in a case of power theft/tampering with the electricity meter and a default of ₹73,832/-, for which a show cause notice has been issued. He contends that the said show cause notice firstly has been issued to his father, who is a deceased and his brother namely Gurlal Singh and not the petitioner and secondly, the said show cause notice is dated 11.08.2017, which is more than one year subsequent to the date of appointment of the petitioner as Lambardar. In any case, the said show cause notice has been compounded by the mother and brother of the petitioner on 29.08.2017 by depositing of the compounding fee. Receipts have been appended as Annexure P-9. He, in the light of the above, contends that the remand order dated 20.12.2017 passed by the Financial Commissioner, Punjab, cannot sustain as the events, which had taken place subsequent to the appointment of the petitioner as a Lambardar, cannot be taken into consideration for reconsideration of the claim of the petitioner and other afresh as the relevant date for consideration is the date when the application are considered and decision taken thereon. He, therefore, contends that the order dated 20.12.2017 cannot sustain and deserves to be set aside.

that the petitioner was a beneficiary and was using the meter which has been found to be tampered with, for which although there has been a compounding of the same but indicates that conduct of the petitioner, which has rightly been taken into consideration by the Financial Commissioner (Appeals), Punjab, while passing the order dated 20.12.2017. He, however, could not dispute the fact that the said show cause notice is subsequent to the date of appointment of the petitioner as Lambardar and further that the receipts (Annexure P-9) indicate the compounding of the said show cause notice by the brother as well as the mother of the petitioner.

4. I have considered the submissions made by the counsel for the parties and have with their assistance, gone through the impugned order dated 20.12.2017.

5. It is a settled preposition of law that the relevant facts which are to be taken into consideration are till the date on which a decision is taken with regard to the application submitted by a candidate for appointment to the post of Lambardar. Any subsequent events after the appointment of a candidate to the post of a Lambardar cannot be taken into consideration for annulling the appointment, although it may be a good ground for his removal or dismissal as the case may be.

6. In view of the above proposition of law, the remand order dated 20.12.2017 passed by the Financial Commissioner, Punjab, Chandigarh, is not sustainable as the same is based upon subsequent events, which do not appear to be relatable to the petitioner as two show cause notices which have been served upon, are on the father of the petitioner as well as the brother, father unfortunately has died and

29.08.2017, which is prior to the passing of the order dated 20.12.2017, which should have been taken into consideration by the Financial Commissioner, Punjab.

7. In view of the above, the writ petition is allowed.

8. The impugned order dated 20.12.2017 (Annexure P-6) passed by the Financial Commissioner (Appeals), Punjab-respondent No.1 is hereby set aside.

9. Learned counsel for respondent No.4 states that this would deny any consideration of the subsequent conduct of the Lambardar to be taken into consideration by the competent authority for removal or dismissal of a Lambardar.

10. It goes without saying that any subsequent event, which may have taken place, which would be a good ground for removal or dismissal of the Lambardar, can be agitated and pressed before the competent authority as per law.

January 8th, 2019
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No