

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

LPA No.260 of 2020 (O&M)

Date of Decision :05.03.2020

Harvinder Singh

.....Appellant

Versus

Financial Commissioner (Revenue) and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. A.S.Salar, Advocate for the appellant.

Mr. Manish Kumar Singla, Advocate
for respondent No.3-caveator.

Arun Palli J.:

This is an *intra Court* appeal, under Clause X of the Letters Patent, against a judgment and order dated 03.12.2019, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.

Owing to the death of Jangir Singh, office of Lambardar fell vacant in village Sanghreri, District Sangrur. Coincidentally, appellant (Harvinder Singh) and respondent No.3 (Jaswant Singh), who happened to be the sons of late Jangir Singh, competed for selection to the post of Lambardar. Naib Tehsildar, Tehsildar, Sangrur and even the Assistant Collector Grade-I-S.D.M. recommended appellant Harvinder Singh for appointment. However, the District Collector upon comparative analysis of the candidature of both the candidates, vide order dated 08.01.2016, appointed respondent No.3. Being aggrieved, the appellant assailed the said order by way of an appeal which was accepted by the Divisional

Commissioner, who vide order dated 20.10.2016, and upon considering that appellant was more suitable for appointment remitted the matter to the Collector for decision afresh. However, the Financial Commissioner, vide order dated 16.01.2017, accepted the revision filed by respondent No.3 and set aside the order of the Divisional Commissioner, affirming the appointment of respondent No.3 as Lambardar. This is how, the appellant approached this Court, vide a writ petition, referred to above, which was dismissed. Thus this appeal.

We have heard learned counsel for the parties and perused the records.

Ex facie, upon consideration of the matter in issue and the material on record, the learned Single Judge concluded: appellant owned 5 acres of land in the village whereas respondent No.3 was owner of a larger land holding measuring 6 acres. Further, appellant had studied up to 5th class whereas respondent No.3 was matriculate. Undoubtedly, Naib Tehsildar, Tehsildar and Assistant Collector Grade-I had recommended the candidature of the appellant but indisputably those recommendations were merely suggestive and not binding in any manner. The District Collector, preceded by a comprehensive analysis of the candidatures of both the candidates in context of the functions to be discharged and the nature of office of Lambardar concluded that respondent No.3 was more suitable. Further, the position of law is settled that unless the discretion exercised by the District Collector was demonstrated to be perverse and contrary to the any statutory provisions, the same could not be interfered with. As regards FIR dated 22.05.2016, under Sections 307, 323, 447, 427, 148 and 149 read with Section 120-B IPC, registered at Police Station Sadar Sunam, against

respondent No.3, suffice it to observe that said FIR was registered subsequent to the appointment of respondent No.3 on 08.01.2016. Not just that the said FIR was lodged not only against respondent No.3 but 24 others who were specifically named and 20 more who were unknown. Significantly, even the challan had not been presented by the police post investigation. Thus, the said FIR was inconsequential, for, the eligibility and candidature of respondent No.3 was to be evaluated in the wake of the factors prevalent at the time of his appointment. The argument, for, the appellant had even served as Sarbrah Lambardar and therefore, ought to have been appointed as Lambardar lacks conviction and cannot be countenanced. Needless to assert that just because the appellant served as such would not vest him with an indefeasible right to claim appointment as Lambardar. For, at best it could only be a relevant factor to be taken into consideration while evaluating the suitability of the candidates. Further, it is only in an eventuality, where both the candidates are similarly placed, the factor that one of them has served as Sarbrah Lambardar would enure to his advantage and not otherwise. Whereas in the present case the District Collector, the Financial Commissioner and even the learned Single Judge concluded that respondent No.3 being more educated and as he held a bigger land holding was more suitable. Likewise, the argument that being younger in age than respondent No.3, the appellant ought to have been preferred for appointment is equally erroneous. Both the candidates were almost in the same age bracket, for, respondent No.3 was merely 4 years older. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusion arrived at by the learned Single Judge was either contrary to the record or suffered from any material illegality.

In the wake of the above, we are dissuaded to interfere with the impugned judgment and order rendered by the learned Single Judge.

The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

05.03.2020
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No