

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

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CWP No.13670 of 2015

Date of Decision:27.02.2020

Naib Singh

.....Petitioner

Vs.

Financial Commissioner Haryana & Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Bhag Singh Advocate
for the petitioner.

Mr. Manish Dadwal, AAG Haryana
for the State.

Mr. Satnam Sishodia, Advocate
for Mr. Ravinder Malik (Ravi), Advocate
for respondent No.3.

SUDHIR MITTAL, J. (ORAL)

The petitioner was appointed as Lambardar by the Collector vide order dated 13.08.2008. However, the appeal of respondent No.3 was accepted by the learned Commissioner vide order dated 31.03.2009 and the said respondent was appointed as Lambardar. The revision of the petitioner has been rejected by the Ld. Financial Commissioner vide order dated 27.01.2015. Thus, the present writ petition has been filed.

Learned counsel for the petitioner submits that the ground on which the revision of the petitioner has been rejected, is non-existent. The petitioner continues to own 45 kanals of land in the village. The remaining land, he has sold and has purchased land in an adjoining village in the name of his daughters-in-law. Thus, the impugned order dated 27.01.2015 is illegal. Moreover, it is settled law that the choice of the Collector must be respected unless it is found to be perverse. Neither the Commissioner nor the

Financial Commissioner have found any perversity in the said order and on this ground alone, the impugned order deserves to be set aside.

Learned counsel for respondent No.3 submits that according to notification dated 23.07.2008 issued by the State of Haryana, Rule 15 of the Punjab Land Revenue Rules has been amended and educational qualification of middle pass has been prescribed for the post of Lambardar. The petitioner does not fulfill this qualification and thus, he could not have been appointed as Lambardar.

However, learned counsel for the said respondent admits that the petitioner continues to own some land in the village and that he has purchased land in another village after selling the remaining land of the present village.

It has been held times without number that in the matter of appointment of Lambardar, the choice of the Collector must be respected unless the same is found to be perverse. No perversity has been pointed out in the said choice either by the authorities below or by the learned counsel for respondent No.3. The ground of non possession of any agricultural land in the village is non-existent as has been admitted by the learned counsel. Thus, learned Financial Commissioner was not justified in rejecting the revision of the petitioner.

Issue regarding educational qualification has been raised by respondent No.3 for the first time before this court. The said issue was never raised before the authorities below and thus, he would be deemed to have waived the said objection. That apart,

the prescription of the amended Rule is that a candidate 'should be literate, preferably Middle Pass.' The requirement of being middle pass is not mandatory. Preferably, a candidate should be middle pass. The essential requirement is only that he should be literate and it is not denied that the petitioner is literate. The argument thus deserves to be rejected.

The writ petition is accordingly allowed. Order dated 27.01.2015 passed by the Financial Commissioner as well as the order dated 31.03.2009 passed by the Commissioner are set aside. Order dated 13.08.2008 passed by the Collector is restored.

February 27, 2020
NainaRajput

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No