

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.208

CWP-19024-2016 (O&M)

Date of decision : 3.2.2020

Jagjit Singh

..... Petitioner

VERSUS

Financial Commissioner Revenue, Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.S. Seemar, Advocate, for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. P.S. Bhangoo, Advocate for respondent No.4.

SUDHIR MITTAL, J. (Oral)

The petitioner has sought quashing of order dated 20.5.2016 (Annexure P-3) passed by the Financial Commissioner, Punjab as well as order dated 4.5.2012 (Annexure P-1) passed by the District Collector, Fatehgarh Sahib.

Vide order dated 4.5.2012, the District Collector, Fatehgarh Sahib appointed the private respondent as Lamberdar because the petitioner was not found suitable on account of pendency of an FIR. It was also found that although, the petitioner had been acquitted in another FIR, the registration thereof amounted to a stigma on his character. This was despite the fact that the authorities below had recommended the name of the petitioner. Aggrieved, the petitioner filed an appeal, which was accepted by the Divisional Commissioner, Patiala vide order dated 20.2.2014. The matter was remanded for a fresh decision as the petitioner had since been acquitted in both the criminal cases registered against him. Further, revision carried by the private respondent was allowed by holding that registration of

virtue of Rule 15 the Punjab Land Revenue Rules, 1887 (hereinafter referred to as 'the Rules') as the mere fact of registration of an FIR cast a doubt on the character of the candidate. It was further held that the selection made by the Collector should not be lightly interfered.

Learned counsel for the petitioner submits that the findings of the learned Financial Commissioner were perverse and illegal. The judgments passed in the criminal cases registered against the petitioner are on record and they show that the petitioner was honourably acquitted. Thus, the observation that a doubt was created regarding the character of the petitioner merely on account of registration of an FIR, was erroneous. It is further submitted that the proposition that the order of the Collector should not normally be interfered with is not an absolute proposition. The order of the Collector suffers from the same flaws as that of the learned Financial Commissioner. Thus, the writ petition deserves to be allowed.

Learned counsel for respondent No.4 submits that Rule 15 of the Rules dis-entitles a person to be appointed as a Collector as registration of a criminal case creates a doubt about the character of a candidate.

Rule 15(d) of the Rules states that 'while appointing a Lamberdar, one of the points to be kept in mind is his character.' If a candidate has been honourably acquitted by the criminal courts, there can be no adverse inference drawn regarding his character. If it were to be held otherwise, people who are subjected to motivated criminal prosecution, would stand to loose. It would become very easy to dis-entitle a candidate by getting a false criminal case registered against him. It is well-known that leveling false allegations for getting a criminal case registered, is not a very

difficult thing to do. The judgments of acquittal passed in favour of the petitioner clearly show that in one case the allegation pertained to a date on which he was not holding the particular appointment and in the other case, the prosecution was unable to establish that the petitioner had tampered with the official record.

Accordingly, the writ petition is allowed. Impugned order dated 20.5.2016 passed by the learned Financial Commissioner, Punjab, is set aside and order dated 20.2.2014 passed by the learned Divisional Commissioner, Patiala is restored. The Collector, Fatehgarh Sahib is directed to decide the case afresh by keeping in view the respective merits and demerits of the candidates and by ignoring the factum of registration of the criminal cases against the petitioner, within a period of four weeks from the date of receipt of certified copy of this order.

(SUDHIR MITTAL)
JUDGE

3.2.2020
Ramandeep Singh
Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No