

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

CWP-17675-2020 (O&M)
Date of Decision: December 07, 2020

PARVINDER SINGH

.....PETITIONER

Versus

FINANCIAL COMMISSIONER AND ORS

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Raj Kumar Kakkar, Advocate for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Mr. Neeraj Madan, Advocate for respondent No. 4.

Lisa Gill, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner seeks quashing of order dated 01.09.2020 (Annexure P4) passed by respondent No. 1 – Financial Commissioner (Appeals), whereby order dated 19.07.2016 (Annexure P1) passed by the learned District Collector, Fazilka appointing the petitioner as Lambardar of village Chak Bhawra as well as order dated 18.05.2017 (Annexure P3) passed by the learned Divisional Commissioner, Ferozepur upholding the said order, has been set aside and the matter has been remanded to the Collector, Fazilka for a decision afresh.

It is submitted that the petitioner, who is a Matriculate and owner of 47 kanals 11 marlas land was appointed as Lambardar of village Chak Bhawra on 19.07.2016 (Annexure P1). Petitioner's name was wrongly mentioned and later corrected in order dated 07.09.2016 passed by learned District Collector and Sanad (Annexure P6) was issued in favour of the petitioner. Learned Collector appointed the petitioner while observing him to be an eligible candidate for the post with the petitioner having studied upto 10th standard and being owner of the land measuring

47 kanals 11 marlas besides the fact that the petitioner's grandfather earlier remained Lambardar of the village and the petitioner is aware of the nature of work. The petitioner is observed to be a resident of the village in question. He was, accordingly, appointed as Lambardar.

Appeal filed by respondent No. 4 was dismissed by learned Commissioner, Ferozepur vide order dated 18.05.2017. Revision petition filed by respondent No. 4 was, however, allowed and the matter remanded to the Collector, Fazilka for a decision afresh, with an observation that both the Collector and the Commissioner in their orders have specifically referred to the experience gained by the petitioner while his grandfather was Lambardar of the village. It is further observed that keeping in view the date of birth of the present petitioner and death of his grandfather, which are not denied, it was evident that the petitioner was one or two years old at that time and a child of this age could not possibly assist his grandfather in the duties of the post of Lambardar. Learned Financial Commissioner observed that relevant factors and inter-se merit of the candidates were not properly considered and the matter was, thus, remanded for decision afresh. Aggrieved therefrom, this writ petition has been filed by the petitioner challenging order dated 01.09.2020 passed by the Financial Commissioner (Appeals), Punjab, Chandigarh.

Learned counsel for the petitioner submits that there is infact no perversity or arbitrariness insofar as orders dated 19.07.2016 and 18.05.2017 passed by the Collector and Commissioner, are concerned. It is submitted that even if reference to the grandfather of the petitioner as a Lambardar is ignored, the petitioner is more meritorious than respondent No. 4. The Collector, it is submitted, had considered all the relevant documents produced by the petitioner

and it is only after examining the case of the petitioner and respondent No. 4 that District Collector appointed the petitioner as Lambardar after considering their relative merit. This has been so observed by learned Commissioner as well. Therefore, in the absence of any arbitrariness and perversity in the orders of the Collector and Commissioner, the Financial Commissioner has grossly erred in setting aside orders dated 19.07.2016 and 18.05.2017 and remanding the matter back to the Collector.

Reply on behalf of respondent No. 4 has been circulated on the Whatsapp group created for the purpose of video conferencing today. A print out of the same is attached with this petition. Reply by way of affidavit dated 06.12.2020 of respondent No. 4 be filed with the Registry of this Court within two days.

Learned counsel for respondent No. 4 vehemently opposes the prayer in this writ petition and submits that the matter has been rightly remanded to the Collector, Fazilka in the factual matrix of the case.

I have heard learned counsel for the parties and have gone through the file with their able assistance.

A perusal of order dated 19.07.2016 passed by the Collector, Fazilka as well as 18.05.2017 passed by the Commissioner, Ferozepur clearly shows that both the said authorities have referred to the petitioner's grandfather remaining Lambardar of the village and the petitioner, thus, being aware of the Lambardari work. Learned Commissioner has in fact observed that the present petitioner used to assist his grandfather in performance of duties on the post of Lambardar and, thus, he acquired knowledge of the duties of Lambardar in the process. Doubtlessly, this is one of the factors taken in consideration by the Collector while appointing the petitioner as Lambardar.

In this view of the matter, I find no infirmity, irregularity and perversity in the impugned order dated 01.09.2020 passed by the Financial Commissioner, who has directed the Collector, Fazilka to decide the matter afresh after keeping in view the relative inter se merit of the candidates. I do not find merit in the argument of learned counsel for the petitioner that the learned Financial Commissioner has made observations in the impugned order which are likely to prejudice the petitioner's case. The said observations in regard to any other eligibility criteria shall necessarily remain confined for purpose of decision of the revision petition and shall not be taken to be reflection on the inter-se merit of the candidates.

This writ petition is, thus, dismissed. Needless to say, learned Collector shall decide the matter afresh without being influenced by any observation other than regarding experience gained by the petitioner with his grandfather in respect to the relative merit of the candidates. The matter shall be decided independently on the basis of material before the learned Collector.

December 07, 2020

rts

(Lisa Gill)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No