

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

Sr. No.224

CWP No.20530 of 2016

DATE OF DECISION: March 12, 2020

NAVDEEP SINGH

..PETITIONER

VERSUS

FINANCIAL COMMISSIONER, PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Harsh Bunker, Advocate, for the petitioner.

Ms. Samina Dhir, DAG, Punjab, for respondents No.1 to 3.

Mr. Sanjay Gupta, Advocate, for respondents No.4.

SUDHIR MITTAL, J. (ORAL)

On the death of Sh. Kulwinder Singh of Village Janian, Tehsil Nawanshahr, District Shaheed Bhagat Singh Nagar, proceedings were initiated for filling up the post of Lambardar vacated on his death. Proclamation was done and pursuant thereto, seven candidates applied for the said post. Finally, only three candidates remained for consideration and the Sub-Divisional Magistrate recommended the name of respondent No.4. Vide order dated 19.11.2013 (Annexure P-1), the Collector appointed the petitioner as the Lambardar. Respondent No.4 filed an appeal which was allowed by the learned Commissioner vide order dated 24.07.2015 (Annexure P-2) and the matter was remanded to the Collector for a fresh decision. The revision of the petitioner against the order of the Commissioner has been dismissed by the Financial Commissioner vide

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order date 04.08.2016 (Annexure P-4), leading to the filing of the present writ petition.

2. Learned counsel for the petitioner submits that the Financial Commissioner found as a matter of fact that the order of the Commissioner was non-speaking. Thus, he should have set aside the order of the Commissioner and remanded the matter to him for a fresh decision in accordance with law. He could not have proceeded further to record that the order of remand did not prejudice the rights of the parties and thus, no interference was called for. It is next argued that the Commissioner was not justified in remanding the case without returning a finding of perversity in the order of the Collector. Moreover, the learned Commissioner has not set aside the order of the Collector while remanding the case and thus, the order of the Collector has attained finality. Both these aspects have been lost sight of by the learned Financial Commissioner. Finally, it is submitted that unless and until the choice of the Collector is found to be perverse, the same should be respected. Learned counsel has placed reliance upon ***Ranbir Singh vs. State of Haryana and others, 2015(36) R.C.R. (Civil) 716 and Khazan Singh vs. Shamsher Singh, 1998(3) R.C.R. (Civil) 634.***

3. Learned counsel for the respondents submits that the Collector decided the case in favour of the petitioner only on the ground that he was the son of the deceased Lambardar. Hereditary claim is unconstitutional and this fact could not have been taken into consideration by the Collector. Thus, the order of the Collector was perverse and the Commissioner was justified in remanding the case for a fresh decision after examining the respective merits of all the candidates. For the same reason, there is no

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error in the order of the Financial Commissioner and the writ petition is deserves to be dismissed.

4. A perusal of the order of the Collector dated 19.11.2013 shows that all the candidates before him have been evaluated in accordance with their respective merit. The educational qualifications of the candidates were found to be the same. It was also found that being a Scheduled Caste lambardari, there was no requirement of ownership of land in the village. Faced with this situation, the Collector put questions to the candidates and the petitioner answered the same satisfactorily. In this context, a reference has been made to him being the son of the deceased Lambardar on account of which, he had acquired knowledge about the job. Being the son of the deceased Lambardar is not the sole reason for appointing the petitioner and therefore, I do not find any perversity in the order of the Collector. Thus, the learned Commissioner was not justified in remanding the matter for a fresh decision. Moreover, according to the case of *Khazan Singh (supra)*, order dated 19.11.2013 passed by the Collector has become final as the same was not set aside by the Commissioner while remanding the matter. Thus, the Financial Commissioner was not justified in upholding the order of the Commissioner.

5. Accordingly, the writ petition is allowed and order dated 04.08.2016 (Annexure P-4) passed by the Financial Commissioner as well as order dated 24.07.2015 (Annexure P-2) passed by the Commissioner, are set aside.

March 12, 2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes
Yes