

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

CWP-20153-2020(O&M)

Date of decision: 26.11.2020

NACHHATAR SINGH

.....Petitioner

Versus

Financial Commissioner (Appeals) Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.K.K.Thakur, Advocate for the petitioner

ANIL KSHETARPAL, J. (ORAL)

This writ petition has been filed questioning the correctness of the order dated 28.2.2020, passed by the Commissioner, Ferozepur Division, Ferozepur, which has been affirmed by the Financial Commissioner (Appeals), Punjab on 27.10.2020. In this litigation the appointment to the office of Lambardar is being hotly contested . The Commissioner after making comparative study of merits and demerits of both the candidates, observed as under:-

“I have considered the arguments and perused the record of the case. According to Naqsha Lambardari, the appellant Shivdev Singh is a young person of 23 years of age, owner of 5 Acres of land and studied upto 10th class standard along with Technical Diploma. It is well settled law that a young person should be preferred in the matter of appointment to the post of Lambardar. On the other hand, the respondent has studied upto 8th class standard and owner of 22.5 kanals of land and aged about 43 years. The appellant has better merits than respondent as regards educational qualification, land holding and age. The District Collector has not assigned any reason for ignoring the appellant and erred in ignoring the appellant who is meritorious candidate and appointed the respondent who is low in merit. The comparative study of merits and demerits of the appellant and respondent has not been made by the

District Collector and directions given in the remand order dated 18.1.2018 have not been followed. Therefore, I accept the appeal, set aside the impugned order dated 26.11.2019 passed by the District Collector, Sri Muktsar Sahib and appoint the appellant Shivdev Singh as Lambardar of village Katorewala, Tehsil Malout, District Sri Muktsar Sahib keeping in view his merits.”

The aforesaid reasons have been affirmed by the Financial Commissioner, in its order, dated 27.10.2020.

Learned counsel, for the petitioner, contends that since the petitioner had been appointed as Lambardar on two different occasions by the Deputy Commissioner cum Collector, therefore, the Commissioner had no jurisdiction to interfere.

This Court has considered the submission. Against the order passed by Deputy Commissioner, an appeal under Section 13 of the Punjab Revenue Act, 1887, is maintainable before the Commissioner. In the first round, learned Commissioner had set aside the order passed by the Deputy Commissioner while remitting the case back to the court of Deputy Commissioner. However, learned Collector without complying with the directions issued to carry out comparative analysis of the merits and demerits of both candidates reiterated his previous order. Thus, the Commissioner, in appeal, has passed the impugned order. If the Appellate Court comes to a conclusion that the order passed by the Subordinate Court, is erroneous, it has power to set aside the same. It is not necessary that on every occasion, the case should be remanded back.

Learned counsel, for the petitioner, failed to point out any

error in the comparative analysis made by the Commissioner. In view thereof, there is no ground to interfere.

Hence, dismissed.

26.11.2020
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No