

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 22322 of 2020

Date of Decision: 23.12.2020

Gurjant Singh

... Petitioner(s)

Versus

Financial Commissioner Revenue (Appeals), Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Jatinderpal Singh, Advocate
for the petitioner(s).

Ms. Anju Sharma Kaushik, Deputy Advocate
General, Punjab for respondents No.1 to 3.

Anil Kshetarpal, J.

The petitioner has sought issuance of a writ in the nature of certiorari to quash the orders passed by the Commissioner, Faridkot Division, Faridkot and the Financial Commissioner (Appeals), Punjab.

The race is to become a Lambardar (Headman) of Village Jeond, Tehsil Rampura Phul, District Bhatinda. The Collector nominated the name of the petitioner to the office of the Headman. However, the Commissioner set aside the order and directed the Deputy Commissioner to decide afresh. The Commissioner, while passing the order, has observed as under:

“5. I have considered the arguments advanced by the learned counsel for the parties and have also gone through the record. From the perusal of record, it does not stand proved by cogent and convincing document that Munadi was actually got affected in village Jeond for appointment of Lambardar, because on the

order of Munadi No. 817 dated 22.12.2014 issued by the Court of Assistant Collector Ist Grade (Tehsildar), Rampura Phul, a report dated 24.12.2014 has been made by Jagsir Singh Patwari to the effect that vide Rapat No. 156 dated 24.12.2014 Munadi through Darshan Singh Chowkidar was made. However, this bald statement is not sufficient to prove that actually Munadi was got effected in village Jeond, because no date and time of Munadi has been mentioned in the said report dated 24.12.2014, not the said report has been got attested from any Lambardar or respectable of the person, but only has been signed from Darshan Singh Chowkidar. A perusal of the record further goes to show that the respondent had filed application on 29.08.2014 for his appointment as Lambardar of Village Jeond and thereafter the proceedings for appointment of Lambardar were initiated. A perusal of the record further goes to show application of Lachhman Singh, who only applied for appointment of Lambardar is without any date and similarly the application of respondent Gurjant Singh, who also applied for appointment of Lambardar after the alleged Munadi is also without any date. Both these applications appear to have been got typed at the same movement as the wording of the same except the name, signatures and mobile No. are verbatim. It is also strange enough to say that none from the village except the respondent and Lachhman Singh, has come forward for his/her appointment as Lambardar, if the Munadi was actually effected

in the village. From all this, the only inescapable conclusion is that no proper Munadi for appointment of Lambardar was got effected in village Jeond before filling up the vacant vacancy of Lambardar. Besides this, it can also be safely held that the respondent has more merits than the respondent for appointment of Lambardar, because the academic qualification of the appellant B.A., LL.B, whereas the respondent is matric only, appellant owns 20 acres of land, whereas respondent owns only 7 acres of land.

6. *In view of the discussions made above, this Court is of the considered opinion that ends of justice in the instant case would only be met, if the impugned order dated 14.03.2015 is set aside and this case is remanded back to the Collector (Deputy commissioner), Bathinda, with a direction to decide the same afresh after getting the needful done as required by all canon of law. I order accordingly”.*

As noticed above, the aforesaid order has been upheld in revision by the Learned Financial Commissioner, Punjab.

Learned counsel, for the petitioner, contends that the Divisional Commissioner as well as the Financial Commissioner erred in remanding the case back for decision afresh as the authorities had already followed the procedure laid down in the Punjab Land Revenue Act, 1887 and the Rules framed thereunder as also in the Punjab Land Records Manual.

On careful reading of the concluding part extracted above, it is apparent that the Commissioner has noticed three reasons for setting aside

the appointment. First, the report, of the Chowkidar, does not depict the time, place, the manner in which the proclamation was carried out in the village. The proclamation is the only method to inform the aspirants to apply. In absence of this fact, the Commissioner thought it appropriate to direct the Deputy Commissioner, to decide afresh. Annexure P-2 is the Daily Diary Report dated 24.12.2014. At serial No. 156 thereof, the order received from the Assistant Collector Ist Grade has been entered, whereas under the aforesaid entry, the report of the Patwari and Chowkidar, reads as under:

“Today an order bearing letter No.817 dated 22.12.2014 has been received from the Court of Assistant Collector Ist Grade (Tehsildar), Rampura Phul. Subject: Regarding filling up the post of Numberdar having fallen vacant due to the death of Sh.Kartar Singh, Numberdar, village Jeond. Patwari Halqa, Jeond. Through Kanungo of Circle Rampura. The Deputy Commissioner, Bhatinda vide his order dated 08.12.2014 has accorded his approval for filling up the post of Numberdar in village Jeond having fallen vacant due to the death of Sh.Kartar Singh, Numberdar, which has been received in the office of the Sub-Divisional Magistrate, Rampura Phul vide letter No. 697/Peshi dated 17.12.2014. Thus, you are hereby written that proclamation be effected in the village Jeond that if any person is willing to become the Numberdar of village Jeond, then he can submit his along with proof in this office upto 31.12.2014. After the expiry of the period. no application will be considered. A Rapat may be entered in the Roznamcha.

*Sd/-
Assistant Collector Ist Grade
(Tehsildar) Rampura Phul .*

*Vide Rapat No. 156 dated 24.12.2014, proclamation has
been effected through Sh. Darshan Singh, Chowkidar.*

*Sd/- Darshan Singh,
Chowkidar”.*

Still further, there were only two applications submitted for the appointment for the office of Lambardar. The other candidate withdrew his application within a period of eight days of submitting the application. Further, the Commissioner has noticed that both the applications appear to have been got typed at the same moment as the wordings of the applications are verbatim except their names, signatures and mobile numbers.

In view of the aforesaid finding, this Court does not find substance in the submission of learned counsel particularly when the matter has only been remanded for fresh decision. Hence, the writ petition is dismissed, in *limine*.

**(Anil Kshetarpal)
Judge**

December 23, 2020

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No