

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

Sr. No.219

**CWP No.7820 of 2018 (O&M)
DECIDED ON: January 24, 2020**

NAVDEEP PAL SINGH

..PETITIONER

VERSUS

FINANCIAL COMMISSIONER (APPEALS), PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Paramjit Rajput, Advocate, for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Rai Singh Chauhan, Advocate,
for respondent No.4.

SUDHIR MITTAL, J. (ORAL)

Vide order dated 10.04.2007, the petitioner was appointed as Lambardar by the learned Collector. Appeal of respondent No.4-Harbhajan Singh was rejected vide order dated 15.11.2007. Revision before the Financial Commissioner was also dismissed vide order dated 14.07.2010. The orders of the Revenue Authorities were challenged before this Court by way of CWP No.18875 of 2010 but the writ petition was dismissed vide order dated 25.07.2011. A Letters Patent Appeal No.1484 of 2011 was filed against the order passed in the writ petition, which was however dismissed as withdrawn vide order dated 23.08.2011 with liberty to take benefit of an observation of the learned Single Judge that an application could be filed before the learned Collector taking the plea that the petitioner meanwhile had been appointed Sarpanch and candidature of respondent No.4 had been

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rejected on this ground.

2. Accordingly, an application was filed but the same was rejected by the learned Collector vide order dated 01.02.2012. Against the said order, respondent No.4 filed an appeal and the learned Commissioner allowed the same remanding the matter to the learned Collector with directions that the issue of holding the post of Sarpanch be reconsidered in the light of order dated 10.04.2007 wherein a mention was made about holding of the said post by respondent No.4. The petitioner filed an appeal against the order of remand but the same was dismissed vide order dated 30.11.2017, leading to the filing of the present writ petition.

3. Learned counsel for the petitioner submits that the order of remand of the learned Commissioner was bad in law as a person can be removed from the post of Sarpanch only if he suffers from any disqualification mentioned in Rule 16 of the Punjab Land Revenue Rules, 1887 (hereinafter referred to as the Rules). The learned Collector has found that the petitioner did not suffer from any such disqualification and thus, the learned Commissioner fell in error in remanding the case with the observation that the matter be examined afresh by taking into consideration the fact that the matter of a candidate holding the post of Sarpanch had weighed with the Collector while passing order dated 10.04.2007. Moreover, the learned Financial Commissioner has gone further and has enhanced the scope of examination on remand by including the merits and demerits of the respective candidates.

4. Learned counsel for respondent No.4 submits that the fact that the petitioner is now holding the post of Sarpanch should be re-examined in

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the light of the fact that holding of the said post had operated as a disqualification for the answering respondent, when the matter was considered by the Collector at the first instance.

5. The order of the learned Collector dated 10.04.2007 has withstood scrutiny up to this Court. Thus, the merits and demerits of a candidate cannot be re-examined upon remand as has been held by the learned Financial Commissioner. So far as the issue of holding the post of Sarpanch is concerned, learned counsel for the petitioner is correct in submitting that a Lambardar can be removed only if he suffers from any disqualification provided in Rule 16 of the Rules and not otherwise.

6. Accordingly, the writ petition is partly allowed. It is directed that the matter be considered afresh upon remand in the light of the observations made herein above.

January 24, 2020
Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes