

CWP No. 16960 of 2014

Date of Decision: March 03, 2020

Darshan Singh

.....Petitioner

versus

Financial Commissioner and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. G.L. Bajaj, Advocate
for the petitioner

Ms. Samina Dhir, DAG Punjab

Mr. J.S. Brar, Advocate
for respondent No. 4

Sudhir Mittal, J. (Oral)

The petitioner was recommended for being appointed as Lambardar by lower revenue officials and appointed as such by the Collector vide order dated 17.11.2011. The appeal filed by respondent No. 4 was dismissed by the learned Commissioner vide order dated 16.01.2013. However, a further revision has been allowed by the learned Financial Commissioner vide order dated 15.04.2014.

Learned counsel for the petitioner submits that it is a settled proposition of law that the choice of the Collector must be respected unless the same is shown to be perverse. Learned Financial Commissioner has not found any perversity in the order of the Collector but has differed from the choice of the Collector on account of respondent No. 4 being better educated and possessing the experience of Lambardar having served as 'Sarbrah'. A difference in opinion can not be a ground for setting aside the choice of the Collector and, thus, the learned Financial Commissioner was in error in remanding the case for a fresh decision.

Learned counsel for respondent No. 4 submits that the said respondent is younger in age and possesses the experience having served as 'Sarbrah Lambardar'. These are relevant factors to be taken into consideration and, thus, there is no error in order of the Financial Commissioner. He relies upon ***Mahavir Singh vs. Khiali Ram and others, 2009(1) RCR(Civil) 757*** as well as ***Bhag Singh vs. Financial Commissioner (Revenue), Haryana, 2001(1) RCR(Civil) 9***.

The proposition that choice of the Collector should be respected unless the same is shown to be perverse is no longer *res integra*. The law has been settled in this regard and there is no deviation from this rule. In the cases relied upon by learned counsel for respondent No. 4, the said rule has been respected and the observation regarding age and experience are in the said context. Thus, the learned Financial Commissioner was not justified in interfering with the appointment of the petitioner. On the same set of facts two different opinions are possible but that can not be a ground for setting aside choice of the Collector.

For the aforementioned reasons, the writ petition is allowed and the impugned order dated 15.04.2014 passed by the Financial Commissioner is set aside.

March 03, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No