

LPA No.165 of 2021

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

(PROCEEDINGS THROUGH V.C.)

LPA No.165 of 2021

Date of Decision: 12.02.2021

Amrik Singh

...Petitioner

Versus

Financial Commissioner (Appeals), Punjab & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Sukhdev Singh Khokher, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J.

This Letters Patent Appeal has been filed challenging the order dated 05.01.2021 passed by the learned Single Judge, whereby the writ petition preferred by the petitioner for quashing of the order dated 20.01.2020 (Annexure P-9) passed by the Financial Commissioner (Appeals), Punjab, allowing the appeal of respondent No.6 – Sube Singh by setting aside the order of the Commissioner, Jalandhar Division, Jalandhar, dated 20.09.2016/01.11.2016 (Annexure P-8), has been dismissed.

2. It is the contention of the learned counsel for the appellant that respondent No.6 – Sube Singh was appointed as Headman (Lambardar) of villaage Mehjitpur, Tehsil Sultanpur Lodhi, District Kapurthala, by the Deputy Commissioner, Kapurthala, despite the fact that the appellant was

more qualified, younger in age and bearing good moral character as compared to respondent No.6 apart from having his hereditary claim on the post of Lambardar. It is also asserted that the petitioner was owner of more land as compared to the said respondent and therefore, in all respects, was a better candidate and therefore, should have been appointed to the post of Lambardar. As regards respondent No.6, he asserts that the said respondent was involved in an FIR, in which, because of the compromise which had been entered into between the parties, he had been acquitted and therefore, the same cannot be said to be a honourable acquittal attaching stigma to his character. The learned Single Judge, while dismissing the writ petition of the appellant, has failed to take into consideration these facts and has simply proceeded to uphold the order passed by the Financial Commissioner (Appeals), Punjab. He, thus, contends that the impugned order passed by the learned Single Judge, dated 05.01.2021, deserves to be set aside as also the order dated 20.01.2020 passed by the Financial Commissioner (Appeals), Punjab, setting aside the well-reasoned and justifiable order dated 20.09/.2016/01.11.2016 passed by the Commissioner, Jalandhar Division, Jalandhar, appointing the appellant to the post of Lambardar.

3. We have heard the learned counsel for the appellant and with his assistance have gone through the records of the appeal but are unable to accept the prayer as made by the appellant.

4. The brief facts of the case are that with the vacancy having arisen of a Headman (Lambardar) of village Mehjitpur, Tehsil Sultanpur

Lodhi, District Kapurthala, on the removal of the previous Headman, applications were invited. In pursuance thereto, five candidates including the appellant and respondent No.6 applied for the said post of Lambardar. The Tehsildar as well as the Sub-Division Magistrate, after considering the respective merits of the candidates, recommended the name of respondent No.6 – Sube Singh to the Competent Authority to appoint Lambardar. Before the Deputy Commissioner, there were only two applicants remaining i.e. the appellant and respondent No.6. After considering the respective merits of the applicants, the Deputy Commissioner, proceeded to accept the recommendation of the Tehsildar and the Sub-Divisional Magistrate, leading to the appointment of respondent No.6 – Sube Singh vide order dated 22.03.2016 (Annexure P-7).

Appeal preferred by the appellant before the Commissioner, Jalandhar Division, Jalandhar, was accepted by the said authority vide order dated 20.09.2016/01.11.2016 (Annexure P-8) setting aside the order dated 22.03.2016 (Annexure P-7) passed by the District Collector and appointing appellant as the Lambardar of the village. This order was challenged by respondent No.6 – Sube Singh before the Financial Commissioner (Appeals), Punjab, who, on hearing the parties, passed an order dated 20.01.2020 (Annexure P-9) setting aside the order passed by the Commissioner, Jalandhar Division, Jalandhar, on the ground that the settled proposition of law is that the choice of the Collector in the matter of appointment of Lambardar of a village should not be normally interfered with unless the said order is arbitrary or illegal and perverse view has been

taken without exercising the choice judicially. On perusal of the record, the Financial Commissioner (Appeals), Punjab, had come to a conclusion that the District Collector had considered each and every aspect of the case and after evaluating the merits and demerits of the candidates, proceeded to appoint respondent No.6 as Lambardar. The opinion formed by the District Collector while appointing respondent No.6 – Sube Singh is based upon proper appreciation of the comparative merit of the candidates and the said opinion since was bereft of any perversity did not call for any interference especially when the Appellate Authority has only proceeded to allow the appeal without appreciating this legal aspect especially when there is no illegality in the order passed by the District Collector. This conclusion, as reached by the Financial Commissioner (Appeals), Punjab, had found favour with the learned Single Judge resulting in the dismissal of the writ petition.

5. Learned Single Judge has proceeded to consider the submissions made by the learned counsel for the appellant and concluded that although the petitioner is younger in age by few years and is a matriculate with ownership of the land also on the higher side vis-a-vis respondent No.6 but respondent No.6 carries more personal influence and has been an ex-member of the Gram Panchayat from 1992 to 1996 and has also worked as an authorized Sarpanch in the year 1996-97. Villagers have also given Panchnama in favour of respondent No.6 – Sube Singh. These factors have weighed in the mind of the District Collector while appointing respondent No.6 as Lambardar. Further, in the absence of any illegality,

perversity or *mala fide* in the exercise of power by the District Collector, such exercise of choice by him/her is uncalled for, which is the settled law.

6. In our considered view, the impugned order dated 05.01.2021 passed by the learned Single Judge as also the order dated 20.01.2020 (Annexure P-9) passed by the Financial Commissioner (Appeals), Punjab being based upon the settled proposition of law do not call for any interference in the present appeal. The appeal, therefore, as preferred by the appellant, stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

12.02.2021
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No