

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

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CWP No.27259 of 2022

Date of Decision:- 01.12.2022

SUKHDEEP SINGH

....Petitioner

VS.

STATE OF PUNJAB AND OTHERS

....Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Prateek Gupta, Advocate,
for the petitioner.

Mr. Sherry K. Singla, Advocate,
for Caveator-Respondent No.5.

Sudhir Mittal, J. (Oral)

The 5th respondent was appointed as Lambardar by the Collector. Aggrieved, the petitioner filed an appeal which was allowed. The appellate order has been reversed in an appeal filed by the 5th respondent and, thus, the present writ petition has been filed.

A perusal of the order passed by the Financial Commissioner shows that the appeal of the 5th respondent has been allowed on the ground that he was acquitted much before the process of appointment of Lambardar commenced. While doing so, he has placed reliance upon ***Balbir Singh vs. State of Punjab and others*** 2015(4) R.C.R. (Civil) 853.

Learned counsel for the petitioner has argued that a criminal case was registered against the 5th respondent on the allegation of interference with the duties of a public servant. He had assaulted a police official on election duty and had torn his uniform. Subsequently, an untraced report was submitted by the police and there was no honourable acquittal. Thus, ***Balbir Singh (supra)*** was not applicable.

In such a case, the law laid down in ***Jatinder Singh vs. Financial Commissioner***

(Appeals), Punjab and others, 2021 (1) RCR (Civil) 687, should have been followed.

From the facts aforementioned, it is evident that the 5th respondent was the choice of the Collector. His choice is not liable to be interfered unless it is perverse. Appeal filed by the petitioner was allowed on the sole ground of the involvement of 5th respondent in a criminal case. The criminal case was registered on the allegation of having interfered with the duties of a public servant. The police could not substantiate the allegations in the investigation and, thus, filed an untraced report. Keeping in view the nature of the allegations, it cannot be said that a stigma was cast on the character of the 5th respondent. Possibility of false implication cannot be ruled out especially during elections. Thus, the appellate Court was not justified in interfering with the order of the Collector. The interference made has been corrected by the Financial Commissioner and I find no error therein. In **Jatinder Singh (supra)**, two criminal cases had been registered against the petitioner. In one case, he had been acquitted before the commencement of the lambardari case and the other one was quashed on the basis of a compromise. Moreover, he did not challenge the order of the Collector whereby he had been non-suited. He approached the Financial Commissioner after the order passed by the Commissioner. Under the circumstances, this Court held that there was no merit in his writ petition. This case is not applicable in the facts and circumstances of the instant case and, thus, reliance thereupon is misplaced.

The writ petition has no merit and is dismissed.

December 01, 2022
poonam

(SUDHIR MITTAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No