

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

**LPA-286-2020 (O&M)
Reserved on: 12.01.2023
Decided on : 18.01.2023**

Sukhwant Singh

.....Appellant

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN**

Present:- Mr.Vikram Singh, Advocate, for the appellant.

Ms.Deepali Puri, Addl.AG, Punjab.

Mr.Talwinder Singh, Advocate, for respondent No.5.

G.S. Sandhawalia, J. :-

The present appeal is directed against the order of the learned Single Judge dated 23.01.2020 vide which the writ petition was dismissed upholding the order of the Financial Commissioner dated 26.04.2016 (Annexure P-4) wherein fresh munadi had been directed for the post of Lambardar of Village Bhukri Kalan, Tehsil Ludhiana (East), Ludhiana.

The learned Single Judge noticed that appointment of the writ petitioner itself was illegal as the munadi done at the first instance was improper and since the petitioner would have right to apply within the prescribed time, no prejudice had been caused to him by the impugned order since fresh proceedings had been directed.

Counsel for the appellant has vehemently submitted that he had been recommended by the Sub-Divisional Magistrate on 05.07.2018 who had remanded the case to the Naib Tehsildar and thus, his case had been considered on merits by the Collector who had appointed him on

09.07.2012 (Annexure P-1). It is submitted that the Commissioner had also dismissed the appeal on 22.01.2013 (Annexure P-3) and therefore, there was no reason to interfere in the well reasoned order.

Counsel for respondent No.5, Dilbagh Singh, submitted that he had filed the appeal dated 12.07.2011 against the order of the Sub-Divisional Magistrate dated 05.07.2011 wherein he had prayed for setting aside of the said order since the order was against law and to appoint him as Lambardar of the said village. The same could not have been passed by considering the case of writ petitioner as a candidate who had filed his papers after the proclamation.

We have perused the paperbook and have found that when the matter was taken by the District Collector on 09.07.2012, the issue as to whether the present appellant had been validly allowed to file his application for appointment was also subject matter before the Collector as per appeal dated 12.07.2011. However, apparently no order was passed on the same and the case was decided on merits considering the qualifications of both the candidates. The Collector also had noticed that there was a remand dated 05.07.2011 by the Sub-Divisional Magistrate but did not, on merits, take up the connected appeal which would have a valuable bearing on the rights of the writ petitioner.

The Financial Commissioner noticed this fact that the cut-off date was 29.03.2011 as the Assistant Collector had invited applications on 03.03.2011 and the application of the writ petitioner had only been forwarded on 12.04.2011 after the expiry of the last date. It was also noticed that the appeal had been filed on 12.07.2011 which had not been decided by the Collector who had gone ahead and appointed the present

appellant. Resultantly, it was found that there were procedural irregularities in the case and the order of the Collector suffers from infirmities and the revision was thus accepted.

In such circumstances, we are of the considered opinion that the issue has been thrown open again for contest and the learned Single Judge was well justified in declining to interfere in the order of the learned Financial Commissioner. The rights of respondent No.5 had been trampled upon by appointing the present appellant whose application had been accepted beyond the cut-off date without even deciding his appeal which was pending before the same authority.

In such circumstances, the order of the Financial Commissioner dated 26.04.2016 (Annexure P-4) and the order of the learned Single Judge dated 23.01.2020 do not suffer from any infirmity which would warrant interference in the present appeal and the same is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

18.01.2023
sailesh

(HARPREET KAUR JEEWAN)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No