223 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12347-2019
Date of Decision: 01.09.2023

Amrinder Singh ..... Petitioner

Versus

State of Punjab and others ....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gaurav Goel, Advocate, for the petitioner.
Mr. Arun William, Assistant Advocate General, Punjab.
Mr. S.S. Tiwana, Advocate, for respondent No.3.

Rajesh Bhardwaj, J.

Petitioner has approached this Court praying for quashing the impugned order dated 11.02.2019 (Annexure P-2) passed by Financial Commissioner, Punjab, whereby, order dated 02.02.2018 (Annexure P-1) passed by the same Financial Commissioner, Punjab has been recalled after more than one year, and appeal filed by respondent No.3, which was initially dismissed vide order dated 02.02.2018 is fixed for re-hearing.

Adumbrated facts of the case are that on the death of Sadhu Singh, earlier Lambardar of village Ambey Mazra, Tehsil Amloh, District Fatehgarh Sahib on 01.06.2013, post of Lambardar fell vacant. Thus, the process for the appointment of new Lambardar was initiated. Resultantly, proclamation was made by the Assistant Collector Second Grade, Mandi Gobindgarh and the applications were invited from the eligible candidates. In pursuant to the same, six applications were received from Kuldeep Singh, Amrinder Singh (petitioner), Kulwinder Singh, Hardeep Singh, Ranjot Singh and Sukhwinder Singh. Their character verification was got done and as per report of SSP Fatehgarh Sahib, case No.44 dated 20.03.2012 under

Sections 323, 325, 34 IPC was found to be registered against candidate Amrinder Singh i.e. the petitioner. However, on the basis of compromise, he was acquitted by the learned JMIC, Amloh on 07.07.2012. Case No.106 dated 09.06.2002 under Sections 323, 324, 307, 148, 149 IPC and Sections 27-57/59 of Arms Act was found to be registered against Kuldeep Singh at Police Station Gobindgarh, but he was found to be acquitted by the learned Additional Sessions Judge, Fatehgarh Sahib on 21.10.2007. However, no case was found to be registered against rest of the candidates. The inter-se merits of all the candidates were appreciated. On perusal of the candidature of all the candidates, Amrinder Singh i.e. the petitioner was found to be 31 years of age, 10+2 pass and owner of 58 kanals 2 marlas of land in the village. He was the nephew of deceased Lambardar. So far as respondent No.3-Ranjot Singh concerned, he was found to be 23 years of age, 10+2 pass and owner of 6 kanals 15 marlas of agricultural land in village. After hearing all the candidates, the Collector found the petitioner, Amrinder Singh to be more suitable and thus, appointed him to be the Lambardar of the village vide his order dated 04.04.2014 (Annexure P-3). Aggrieved by the same, Ranjot Singh s/o of Jaspal Singh filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the Divisional Commissioner, Patiala Division, Patiala, however, the same was dismissed vide impugned order dated 28.08.2014 (Annexure P-4). Aggrieved by the same, respondent No.3-Ranjot Singh filed revision under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who after hearing both the sides passed the interim order on 02.02.2018 (Annexure P-1), wherein, he pronounced that revision petition is dismissed and detailed order would be issued separately. But thereafter, the learned Financial

Commissioner passed the impugned order dated 11.02.2019, wherein it was observed that as an FIR was registered against Amarinder Singh i.e. the petitioner, which was lateron compromised, which casts some doubts. He further observed in the impugned order that initially the revision petition was dismissed, but on detailed study, the case is submitted to the Financial Commissioner Revenue for marking the same to some other officer for fresh decision. Hence, aggrieved by two contradictory orders made by the learned Financial Commissioner, the petitioner has approached this Court by way of filing the present petition.

It has been vehemently contended by learned counsel for the petitioner that the petitioner was appointed by the Collector vide impugned order dated 04.04.2014. He has submitted that the appeal filed by Ranjot Singh before the Commissioner was dismissed vide order dated 28.08.2014. It is submitted that in a revision filed by respondent No.3- Ranjot Singh, the learned Financial Commissioner passed the order dated 02.02.2018, wherein, it was pronounced in the Court that the revision petition is dismissed and the detail order would be passed separately, however, surprisingly, vide order dated 11.02.2019, the Financial Commissioner (Revenue) recalled the dismissal order dated 02.02.2018 and thus, passed the impugned order dated 11.02.2019, which is totally beyond any comprehension of the law. He submits that after passing of the impugned order, the case was entrusted to another Financial Commissioner for marking it to some other officer for decision afresh. He submits that once the order dated 02.02.2018 was passed in the Court dismissing the revision petition, the Financial Commissioner could not recall the same and thus, the impugned order being totally illegal, deserves to be set aside.

Per contra, learned counsel for respondent No.3 has opposed the submissions made by learned counsel for the petitioner. He has not disputed the order dated 02.02.2018 passed by the Financial Commissioner, wherein the revision petition was dismissed, however, he submits that as the FIR was registered against the petitioner, hence, the Financial Commissioner entrusted the case to Financial Commissioner (Revenue) for marking the same to some other officer for decision afresh vide impugned order dated 11.02.2019.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that on the death of Sadhu Singh, earlier Lambardar of the village, process for the appointment of Lambardar was initiated. In pursuant to which, applications were received and on comparison of the merits of all the candidates, the petitioner was appointed by the Collector vide order dated 04.04.2014. The appeal filed against the same was dismissed by the Commissioner. Precise grievance raised before this Court is regarding two impugned orders passed by the Financial Commissioner in the revision petition filed by respondent No.3- Ranjot Singh. There is no denial to the fact that on hearing the petition, the learned Financial Commissioner has passed the order as follows:-

<u>Order dated 02.02.2018</u>

> "Revision petition is dismissed. Detail order will be issued separately."

<u>Order dated 11.02.2019</u>

> "I have heard the arguments counsel for both the parties and perused the record of lower courts. Both Ranjot Singh petitioner and Respondent Amrinder Singh have more or less similar merit. Ranjot Singh is 23 year old, 10+2 pass and has 6K-15M of land whereas Amrinder Singh Respondent is 31 year old, 10+2 pass and has 58 K of land. But Amrinder had an

> FIR registered against him. Even though subsequently there was a compromise and the case closed, yet it casts some doubt. I had initially dismissed the petition but I, after detailed study of the case feel that the allegations and the facts leading to compromise need to be scrutinized. It is accordingly submitted to Financial Commissioner Revenue for marking it some other officer for fresh decision."

On perusal of the both these orders, it is apparent that the revision petition was dismissed by the learned Financial Commissioner vide impugned order dated 02.02.2018 and the detail order was to be passed separately. However, by passing the impugned order dated 11.02.2019, he reviewed the order dated 02.02.2018, which is beyond any comprehension under the law. The inter-se merits of all the candidates as evident from the record were available since beginning. However, the learned Financial Commissioner did not appreciate the same at the time of hearing of the revision petition and passed order dismissing the same vide order dated 02.02.2018 and thereafter on the ground that an FIR was pending against the petitioner, he reviewed his order, which is totally unsustainable in the eyes of law. This Court finds both the orders dated 02.02.2018 and 11.02.2019 totally illegal and thus, are set aside. The case is remanded to the Financial Commissioner, Punjab for decision afresh.

The petition stands disposed of. The Financial Commissioner would pass the order afresh after hearing the parties in accordance with law within a period of two months from the receipt of certified copy of this order.

(RAJESH BHARDWAJ)
JUDGE

01.09.2023
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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No