



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.257 of 2023 (O&M)

Date of decision: 28.08.2024

Sukhdeep Singh

.....Appellant

Versus

State of Punjab and Ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Parvinder Singh, Advocate for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Yuvraj Singh Chauhan, Advocate for respondent No.5.

G.S. SANDHAWALIA, J. (ORAL) :-

1. Present appeal is directed against the order dated 01.12.2022 vide which the writ petition preferred by the appellant against order dated 29.09.2022 (Annexure P-4) passed by the Financial Commissioner (Appeals), allowing the appeal and restoring the order of the District Collector, Patiala, thereby appointing respondent No.5 as Lambardar of Village Billar Kalan, Tehsil & District Patiala has been dismissed by the learned Single Judge while upholding order dated 29.09.2022.

2. The ground given by the learned Single Judge in the present appeal is that the choice of the Collector was not liable to be interfered and reversed unless it is perverse. It has also been noticed that a criminal case, which has been registered against the private-respondent, could not be substantiated in the investigation and an untraced report has been filed. Thus, it is noticed that in the light of allegations, it could not be said that a stigma was cast on the character of respondent No.5 and it was no longer there and therefore the possibility of false



implication cannot be ruled out especially during elections. Resultantly, the writ petition was dismissed.

3. Learned counsel for the appellant has vehemently argued that the appellant was a better candidate and that the District Collector has not gone into a comparative merit of the candidates. He contends that the learned Collector has failed to acknowledge the fact that the appellant was younger than respondent No.5. That apart, the appellant is owner of 66 kanals 01 marla of land whereas respondent No.5 owns only 13 kanals of land but despite it, the candidature of the appellant was perversely ignored.

4. We have heard learned counsel for the parties and perused the paper book with their able assistance.

5. The interference made by the Divisional Commissioner, Patiala Division, Patiala (for brevity "the Commissioner") vide its order dated 31.10.2018 (Annexure P-3) in favour of the present appellant was only on the ground that a criminal case was registered against respondent No.5-Lakhwinder Singh. It was observed that a person who himself was involved in a criminal case will certainly not command respect of the villagers as well as of the revenue officers and this fact was overlooked by the District Collector while appointing the village Lambardar. Secondly, it was recorded by the Divisional Commissioner that the primary occupation of respondent No.5-Lakhwinder Singh is Bee keeping and thus, he had to travel to far away places taking the bee boxes and collecting the honey therefrom and thus he would not be available at all the times to the fellow villagers whereas the presence of Lambardar is much needed in the Village. A person who, for the reasons of his livelihood, was not available in the village all the time was held to be not a suitable person for the post of Lambardar and this fact had been overlooked by the learned District Collector while appointing

respondent No.5 as village Lambardar, in the opinion of the Commissioner.



6. It is apparent that the allegations raised for the first time in paragraph 8 of grounds of appeal before the Divisional Commissioner regarding non-availability of the respondent No.5 all the time in the village on account of his being engaged in doing the work of Bee-Hiving was never raised at any point of time before the District Collector. The Collector had noticed that though there was FIR registered at one point of time against respondent No.5-Lakhwinder Singh way back in 2003 but the case had been closed vide order dated 13.07.2004 passed by the Addl. Chief Judicial Magistrate, Patiala. Said order reads as under:

“Present: Sh. Rakesh Goyal, APP for the State.

Complainant ASI Moola Singh has come present and made a statement that he is satisfied with the investigation done by the police. Therefore, application of the police reporting the case untraced is accepted. Ahlmad criminal is directed to make note of this order against relevant entry in the register.

File be returned to the concerned PS on proper receipt and due identification. File be consigned to record record.

*Pronounced: 13.07.2004 Addl. Chief Judicial Magistrate,
Patiala”*

7. A perusal of the FIR in question reveals that it was lodged by ASI Moola Singh, posted at City Traffic Patiala and he himself had accepted the untraced report filed by the police department. It has come on record that the post of Lambardar fell vacant in terms of letter of approval dated 21.12.2016 on account of death of earlier Lambardar Ishar Singh on 16.09.2016. The process, as such, started on 21.12.2016 which was 13 years post the closure of the criminal case on account of the Police official himself being satisfied. In such circumstances, the Collector found it prudent to select the private-respondent No.5 as much water had flown under the bridge by them.

8. The argument that the Collector had not interacted with the

Candidates also needs to be repelled with the reading of the order, as apparently,



the selected candidate had appeared and appended his statement before the Collector and therefore, it is apparent that interaction with candidates was very much there. A total of seven candidates had submitted their applications and eventually, 4 had been left for the contest due to withdrawal of three candidates namely, Mahinder Singh, Paramjit Singh and Kanwaljit Singh, in favour of the appellant. The Collector examined the case of Gagandeep Singh and Manjit Singh along with the present 2 contesting candidates. In such circumstances, he came to the finding that that Lakhwinder Singh was more suitable on the basis of the fact that large number of persons had appended their statements and given their names in his favour.

9. The law stands settled, as addressed by the Learned Single Judge also that the Collector has to interact with the candidates and he is the best person for noticing the merits and demerits and come to the conclusion as to who is better candidate. The Financial Commissioner, while setting aside the order of the Commissioner dated 31.10.2018 (Annexure P-3), thus, proceeded on this principle that untill there is perversity or irregularity or illegality in the appointment, the Commissioner is not liable to interfere which is the view taken by a Co-ordinate Bench in **Ranjit Singh Vs. Financial Commissioner, Animal Husbandary, 2011 (53) RCR (Civil) 573**. As noticed, we have also gone through the order of the Commissioner, who never considered the fact that criminal matter had been long settled 13 years ago and the complainant himself appeared before the court of Addl. Chief Judicial Magistrate, Patiala and accepted the untraced report. The allegation that Lakhwinder Singh-respondent No.5 was not available is an allegation which had wrongly been accepted by the Commissioner, without having been raised before the Collector and accepted as gospel truth, which order has rightly been set aside by the Financial Commissioner.



10. Keeping in view the above-said facts and circumstances, we are of the considered view that the order passed by the learned Single Judge does not suffer from any infirmity which would warrant interference in appeal.

11. Resultantly, in view of the above discussion, the present appeal stands dismissed. All the pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

August 28, 2024
manoj/sailesh

(RITU TAGORE)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No