

2024:PHHC:123679-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(113)

LPA-2259-2024(O&M)
Decided on: 18.09.2024

Gurdev Singh

.....Appellant (s)

Versus

State of Punjab & others

....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA

Present: Mr.Imaan Singh Khara, Advocate, for the appellant.

Ms.Arundhati Kulshreshtha, AAG, Punjab.

G.S. Sandhawalia, J. (Oral) :

CM-5409-LPA-2024

1. Application for condonation of delay of 11 days in filing the appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 11 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

CM-5410-LPA-2024

3. Application for condonation of delay of 92 days in refiling the appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 92 days in refiling the appeal is hereby condoned.

4. CM stands disposed of.

LPA-2259-2024 (O&M)

5. Consideration in the present appeal is to the judgment dated 20.03.2024, passed in CWP-28214-2023 whereby the Learned Single

No.4-Jaskaran Singh, as Lambardar (Scheduled Caste) of Village Bir Talab, District Bathinda by the Collector, Bathinda vide order dated 14.07.2022 (Annexure P-3).

6. The said order has been upheld by the Commissioner on 25.01.2023 (Annexure P-4) and thereafter, by the Financial Commissioner on 27.07.2023 (Annexure P-5), which weighed with the Learned Single Judge by noticing that there was no perversity in the orders passed by the authorities below who had noticed that there was very little difference inter se the present appellant and the person recommended for appointment. Therefore, keeping in view the basic principle that the Collector is the prime authority for appointment of Lambardar, who has to take into consideration the overall merits and demerits of all the candidates, the said view was upheld.

7. Counsel for the appellant has tried to convince us that the date had been preponed from 07.03.2022 to 14.01.2022 before the Tehsildar for submitting the documents and therefore, the appellant did not get any opportunity for presenting evidence.

8. We have gone through the orders of the said dates and find that the Tehsildar, Bathinda being well aware that the date had been preponed to 04.03.2022, again fixed the matter for 07.03.2022. The appellant, as such, was present on the said day before the Tehsildar along with 10 others, who had then forwarded the file further to the Sub-Divisional Magistrate, Bathinda including the report of the contesting candidates, separately. The SDM further had recommended the name of private-respondent-Jaskaran Singh for the post of Lambardar.

9. A perusal of the order dated 14.07.2022 (Annexure P-3) passed by the Collector would go on to show that the candidature of 4 candidates were duly considered including the present appellant, inspite of the fact that material had not been submitted in the Court of Tehsildar. We have also noticed that opportunity had been granted but the appellant on his own account having not submitted the requisite documents, the whole procedure adopted, cannot be faulted as the other persons had done the needful. The Collector noticed that there was a recommendation in favour of Jaskaran Singh and therefore, keeping in view the comparative merits,

also notice the aspect that the appointed candidate was younger and therefore, fell back upon the Apex Court judgment in **Mahavir Singh Vs. Khiali Ram & others, 2009 (1) RCR (Civil) 757** and chose not to interfere in the view taken by the Collector.

10. In such circumstances, considering the comparative merits, as pointed out by counsel from the chart at pages 53-54 of the paperbook, we are of the view that in the absence of any perversity in the findings recorded by the Collector, no case for interference is made out. The factum of illegal possession against the private-respondent was also never proved before the authorities below. Resultantly, we are of the considered opinion that the reasoning given by the Learned Single Judge does not suffer from any irregularity or illegality which would need any correction by us.

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

(G.S. SANDHAWALIA)
JUDGE

18.09.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No