

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:099103-DB



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LPA No. 1235 of 2024 (O&M)
Date of decision: 2nd August, 2024

Aman Kumar

..Appellant

Versus

Financial Commissionr (Appeals) and others

..Respondents

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

Present: Mr. Naresh Chander, Advocate for appellant.

Dr. D.S. Lamba, DAG Punjab.
Mr. Sherry K. Singla, Advocate
for caveator/respondent No.4.

G.S. SANDHAWALIA, J(Oral)

The present appeal is directed against the order dated 04.04.2024 passed by the learned Single Judge in Civil Writ Petition No. 21807 of 2019 whereby the writ petition filed by the private respondent-Satwinder Singh was allowed and the orders passed by the Commissioner Roopnagar dated 25.02.2019 (Annexure P-2) as well as the Financial Commissioner Punjab, Chandigarh dated 01.04.2019, (Annexure P-3) were set aside.

2. Learned Single Judge, was constrained to interfere on the ground that comparison of the merit *inter se* has been done in a detailed manner by the Collector when he choose to appoint respondent No.4- Satwinder Singh as Lambardar of the village Bhanam, Tehsil Nangal District Roopnagar, vide order dated 02.03.2016 (Annexure P-1). The

the Collector as such was that the present appellant Aman Kumar was younger in age and was a grandson of a freedom fighter. It was accordingly held that if a well qualified candidate is available, then Collector has every right to take into consideration and the subjective satisfaction of Collector is not liable to be ignored since it is settled law that the Collector is the prime authority to consider the suitability of the candidate for appointment of Lambardar. It was noticed that there one of the parameters as such as per Rule 15 of the Punjab Land Revenue Rules, 1909 would be that the grand son of freedom fighter was to be given priority but the Collector had noticed that there was no evidence on behalf of the appellant regarding holding of the land in village and he was running a mobile shop only and had qualification of only Matric. During the course of arguments, it transpired that there was no specific proof of passing of 10th class also.

3. We are in the respectful agreement with the stand taken by the learned Single Judge. The Collector vide detailed a consideration analysed the merits of 7 candidates and came to a valid conclusion that respondent No.4-Satwinder Singh was the best candidate amongst all of them. The fact that respondent No.4-Satwinder Singh was 39 years of age and possessing MSC Physics/B.Ed qualification and thus was able to write even in English, Punjab and Hindi and he owned 2 kanals 8 marlas of land in the village whereas his father was having 15 kanals land. It was also noticed that said respondent No.4 was running a private school in village Bhanam which was being run by society and he was easily available for works in the village. He had been elected as Member Panchayat during the Panchayat elections in the year 2008 and thereafter had served as a Panch in the month of July-2011 upto July-

2013 and being a social worker had participated in many social welfare works. He had been awarded with *Raj Yuva Puruskar* by the Government of India in the year 2007-2008 and also *Shaheed-e-Ajam Sardar Bhagat Singh Raj Yuva Puruskar* by Government of Punjab.

4. Reliance was placed upon the law laid down in **2007(4) PLR 628 and 2004(2) (RCR) Civil Page 42**, wherein it has been held that preference should be given to a social worker. Apparently the Collector also noticed that there was a candidate, namely, Parkash Chand, who was 66 years 10 months old, who was declared unfit as he was not suitable for the post of Lambardar on account of his age. Interaction was also done during the course of appointment and when the present appellant had been asked about the experience of Lambardar works. He told that he had no experience of Lambardar works and was running a mobile shop. In such circumstance, preference was given to Satwinder Singh. The Commissioners order dated 25.02.2019, which can be termed as non-speaking *in spite of* noting the social standing of Satwinder Singh and the fact he was earlier elected Panch of the village, which would obviously mean that he was a respected person and a man having social standing, the Commissioner set aside the order of the Collector by giving reasoning which is without recording any finding that there was any perversity in the order of the Collector which is the basic consideration. The reasoning reads as under:

“After hearing the arguments of Ld Counsel for both the parties and after considering the record available on the file very mutually it is found that the appellant Aman Kumar is younger than the other candidates, he is running a mobile shop in the village and is a grandson is a Freedom Fighter.

Therefore, I hereby set aside the order dated 2.3.2016 passed by the District Collector and the appeal filed by the

appellant is hereby excepted and Aman Kumar is appointed as Lambardar of Village Bhanam.”

5. The Financial Commissioner failed to rectify the said error done by the Commissioner and only fell back on the rule that the family of the freedom fighter as such has to be given preference. In such circumstances, the learned Single Judge has rightly interfered in the orders passed by the Commissioner and the Financial Commissioner. Keeping in view of the settled law as such that the order of the Collector has to be respected especially more so as pointed out he had occasion to deal with the candidates and find out which was the person more suitable. Having done so it was not within the jurisdiction as such of the Commissioner to have interfered in the order especially in the absence of any reasoning as reproduced above.

6. Thus, we find no ground to interfere in the order passed by the learned Single Judge. Accordingly, the appeal is dismissed. Pending applications, if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

2nd August, 2024
reema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned : *Yes*
Whether reportable : *No*