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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15710-2022 (O/M)
Date of decision : 21.11.2024

Jasjit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Saurabh Bahmani, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG Punjab.

Mr. Rakesh Kumar, Advocate
for respondent No. 4.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Jasjit Singh son of Puran Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, seeking a writ in the nature of certiorari for setting aside of order dated 14.05.2018 (Annexure P-5), passed by learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner') whereby respondent No. 4 (Gurcharan Singh) has been appointed as Lambardar (SC) of village Balerkhanpur, Tehsil and District Kapurthala. A further prayer has been made for setting aside order dated 13.09.2021 (Annexure P-6), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial

Commissioner'), whereby appeal filed by present petitioner against order dated 14.05.2018 (Annexure P-5), was dismissed.

2. Briefly, upon demise of Shri Basant Singh, previous Lambardar (SC) of village Balerkhanpur, Tehsil and District Kapurthala, proceedings were initiated for filling up the aforesaid vacancy. In pursuance thereof, three applications (including the one submitted by petitioner and other by respondent No. 4-Gurcharan Singh) were received. Tehsildar, Kapurthala as well as Sub Divisional Magistrate, Kapurthala, recommended the name of present petitioner for aforesaid vacancy and the matter was forwarded to learned Collector, Kapurthala (in short 'Collector').

2.1 Learned Collector, vide order dated 21.07.2016 (Annexure P-2), appointed the petitioner as Lambardar (SC) of village Balerkhanpur.

2.2 Being dis-satisfied with learned Collector's order, respondent No. 4 preferred an appeal before learned Divisional Commissioner, which came to be allowed, vide order dated 14.05.2018 (Annexure P-5) whereby learned Collector's order dated 21.07.2016 (Annexure P-2) was set aside and respondent No. 4-Gurcharan Singh was appointed as Lambardar (SC) of village Balerkhanpur.

2.3 The petitioner challenged the order dated 14.05.2018 (Annexure P-5) by preferring an appeal (ROA-51-2018) before learned Financial Commissioner, however, same was dismissed, vide order dated 13.09.2021 (Annexure P-6). Hence, the instant civil writ petition.

3. Heard.

4. In the instant case, learned Collector has noticed following merits/demerits of contesting parties herein :-

Sr. No.	Particulars	Petitioner (Jasjit Singh)	Respondent No. 4 (Gurcharan Singh)
1.	Age	47 years	37 years
2.	Educational Qualification	10 th fail	10+2
3.	Occupation	Stage Anchor	Running a shop
4.	Recommended by	Tehsildar, Kapurthala and SDM, Kapurthala	-----

5. Learned Collector appointed the petitioner as Lambardar (SC) of village Balerkhanpur primarily on the ground that the lower revenue officials had recommended his name and that there was no proof regarding his illegal possession on the public land. At the same time, respondent No. 4 was non-suited by learned Collector on the ground that he is running a shop.

5.1 However, learned Collector's order was set aside by learned Divisional Commissioner by observing that the Collector's order was perverse as there was an order dated 04.08.2011, passed by District Development and Panchayat Officer, Kapurthala, whereby present petitioner alongwith others was ordered to be evicted from public land. Learned Divisional Commissioner further observed that respondent No. 4 was younger in age, more educated, lives in the village and is earning himself through a small business in the village, therefore, he was suitable for the post. Accordingly, learned Divisional Commissioner appointed

respondent No. 4 as Lambardar (SC) of village Balerkhanpur, vide order dated 14.05.2018 (Annexure P-5).

5.2 Learned Financial Commissioner, vide order dated 13.09.2021 (Annexure P-6), has further upheld learned Divisional Commissioner's order by observing as under :-

“6. I have heard counsels for the parties and perused the order of the courts below. I have also gone through the written arguments submitted by the parties and documents produced in support of their case. On perusal of the file and scrutiny of the documents, I find that, the Commissioner, Jalandhar Division, Jalandhar vide order dated 14.05.2018, set aside the choice of the District Collector on the ground that the appellant has illegally occupied the panchayat land which had been proved by report of the D.D.P.O. Therefore, I find nothing illegal and perverse in the order dated 14.05.2018 passed by the Commissioner, Jalandhar Division, Jalandhar. Even the appellant himself admitted in his written arguments that there is a construction on the panchayati land. Moreover, the respondent is more meritorious than the present appellant. The court of F.C. Punjab has held in the case of Sangat Singh Vs Karam Chand, 2007 (2) L.A.R. 165 (FC Pb.) that “Allegation of illegal encroachment is cognizable as a stigma when it shows that the candidate made the unauthorized occupation on a Panchayat land. Therefore, I am of the view that the Commissioner has rightly exercised his jurisdiction by setting aside the order dated 21.07.2016 passed by District Collector, Kapurthala.

7. Therefore, I dismiss the present appeal and uphold the order dated 14.05.2018 passed by the Commissioner, Jalandhar Division Jalandhar. Copy of this order be

communicated to the courts below. File be consigned to the record room.”

6. During the course of hearing, learned counsel for petitioner could not dispute the finding returned by learned Divisional Commissioner that petitioner was ordered to be evicted from public/panchayat land and that the said order has attained finality.

7. Since petitioner was in unauthorized possession of public land, I am of the considered view that learned Divisional Commissioner had rightly set aside petitioner's appointment made by learned Collector, vide order dated 21.07.2016 (Annexure P-2). Apparently, respondent No. 4 is younger in age and more educated than petitioner and has been rightly found to be suitable by learned Divisional Commissioner for the post of Lambardar (SC) of village Balerkhanpur. Furthermore, learned Divisional Commissioner's order dated 14.05.2018 (Annexure P-5) has been upheld by learned Financial Commissioner, vide order dated 13.09.2021 (Annexure P-6).

8. Keeping in view the aforementioned circumstances, I do not find any illegality or perversity in the impugned orders dated 14.05.2018 and 13.09.2021 (Annexures P-5 and P-6), passed by learned Divisional Commissioner and learned Financial Commissioner, respectively. Resultantly, the instant civil writ petition fails and the same is accordingly dismissed. Learned Divisional Commissioner's order dated 14.05.2018 (Annexure P-5), appointing the petitioner as Lambardar (SC) of village Balerkhanpur, Tehsil and District Kapurthala is maintained.

9. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

21.11.2024
sjks

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