

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

2024:PHHC:144034-DB



(204)

LPA-1173-2024(O&M)

Date of Decision: 05.11.2024

Malkeet Singh

--Appellant

Versus

Financial Commissioner (Appeals), Punjab
& others

--Respondents

**CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA.
HON'BLE MR. JUSTICE DEEPAK MANCHANDA.**

Present:- Mr. Sherry K. Singla, Advocate for
the appellant.

Ms. Arundhati Kulshrestha, AAG, Punjab for
respondents no.1 to 3.

Mr. Jagat Vir Dhindsa, Advocate for respondent no.4.

G.S. SANDHAWALIA.J (Oral)

1. The present appeal is directed against the judgement dated 24.04.2024 passed in CWP-18788-2021, whereby learned Single Judge has set aside the order of the Commissioner dated 13.05.2021 (Annexure P-4) and the order passed by the Financial Commissioner dated 07.07.2021 (Annexure P-7) and remanded the matter to the Collector for decision afresh to consider the inter se merits of the present appellant and respondent no.4- Satnam Singh.

2. In the the present appeal, the grouse of the appellant strictly is that matter should not have been remanded in the absence of the perversity in his appointment order since the Collector had looked into the merits of the case, while passing order dated 15.10.2018 (Annexure P-2).

3. Learned counsel appearing on behalf of respondent no.4 submits that it is only a case of remand and therefore, there should not be any interference.

4. We have gone through the paper book and are of the considered opinion that the dispute has unnecessarily been prolonged. At the first instance, the District Collector while appointing the present appellant, had noticed that respondent no.4-Satnam Singh was a serving Sarpanch and had been elected unanimously. He was also the Vice President of the Cooperative Society and therefore it could not be said strictly that he did not participate in the political activities. Though, he may be B.A pass and having more land but since the issue of land holding is no longer a consideration in the absence of recovery provision and that aspect would not go in his favour. It is not disputed that he was already 63 years old when his recommendation was made by the Assistant Collector Grade-II, whereas the present appellant was 50 years of age. It is also pertinent to notice that the present appellant was the son of an ex-army man and therefore the services rendered by the family member to the country have been duly taken into consideration by the District Collector while appointing him in preference to the private respondent.

5. The Commissioner had interfered in the said appointment without recording any finding that there was any perversity in the order which is the basic criteria for interference. Learned Single Judge has also remanded the matter with the observations that the Commissioner should not have interfered in the matter. It was also noticed that respondent no.4-Satnam Singh was 65 years of age and thus, did not take into consideration the judgement of the Apex Court in case of **Mahavir Singh vs Khiali Ram**

& others, 2009(3) SCC 439, wherein it has been held that a younger candidate is to be given preference. The said aspect was also not noticed by the Financial Commissioner while dismissing the appeal filed by the present appellant, who was only obsessed with the fact that the present appellant had hereditary claim.

6. Under such circumstances, even both the orders passed by the Commissioner as well as Financial Commissioner should have been interfered by the learned Single Judge, who rather chose to remand the matter and keep the controversy alive. Neither the learned Single Judge has recorded a finding that the order of the Collector is perverse.

7. In view of the above, we are of the considered opinion that the writ petition filed by the present appellant should have been allowed in entirety by setting aside the orders passed by Commissioner and Financial Commissioner.

8. Resultantly, we allow the present appeal and set aside the order dated 13.05.2021 (Annexure P-4), passed by the Commissioner, order dated 07.07.2021 (Annexure P-7), passed by the Financial Commissioner and the order dated 24.04.2024, passed by learned Single Judge, by upholding the order of appointment of the appellant as Lambardar of the village in question.

9. The appeal is allowed in aforesaid terms. Pending application(s), if any, shall also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

05.11.2024
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(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No