

2024:PHHC:081942-DB



Neutral Citation No.

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

(106)

**LPA-1305-2024 (O&M)
Decided on : 03.07.2024**

Gagandeep Singh

.....Appellant(s)

Versus

Financial Commissioner (Appeals), Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE VIKAS BAHL**

Present: Mr.Mohit Shukla, Advocate, for the appellant(s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

1. Consideration in the present appeal, filed by the appellant who was arrayed as respondent No.2 in the writ petition filed by Gurpreet Singh, is to the judgment dated 07.05.2024 passed in CWP-10582-2024 by the Learned Single Judge wherein while dismissing the same, fresh applications were directed to be called to fill up the post of Lambardar.

2. The writ petitioner was aggrieved against the order of the Financial Commissioner whereby the revision petition of the present appellant, Gagandeep Singh was allowed and remand was ordered to the District Collector, Patiala while setting aside the order dated 17.11.2021 (Annexure P-2) passed by the Collector, Patiala and order dated 24.06.2022 (Annexure P-3) passed by the District Commissioner, Patiala Division, Patiala vide which Gurpreet Singh had been appointed to the post of Lambardar of Village Malkana Pattia, Samana.

3. The reasoning which prevailed with the Financial Commissioner was that Gurpreet Singh was employee of a company and therefore, he had produced a false certificate and played fraud with the revenue authorities. Therefore being an employee and having concealed that fact and not being readily available in the village as a Lambardar, his candidature was rejected. The Learned Single Judge while dismissing the writ petition filed by the selected candidate, Gurpreet Singh, modified the order that on remand to the Collector, fresh appointment would be made by conducting the fresh munadi by inviting fresh applications and allowing more deserving candidates from the village to file the applications. The Learned Single Judge also did not interfere with the finding recorded by the Financial Commissioner regarding the fact that the writ petitioner-Gurpreet Singh was a regular employee of the company.

4. The appellant is thus aggrieved on the ground that the Learned Single Judge has thrown open the post for consideration to other applicants also as fresh applications have to be filed and fresh munadi is to be done. It is thus his argument that the order of remand should have just been kept intact.

5. We have perused the file. It is to be noticed that at one stage there were 13 candidates in contention and at the time of finalization of the proceedings before the Collector, candidates had withdrawn in favour of the present appellant and Sunil Kumar and Kundan Singh were marked absent for non-appearance. Resultantly, only the present appellant and Gurpreet Singh were left in the fray. The Collector had just considered the merits of Gurpreet Singh while recording that he was an eligible candidate and also the son of the deceased Lambardar. The comparison of the merits of the present appellant

with Gurpreet Singh were also not done and the order is silent as to what was the merit of the present appellant. The said order has not been interfered with by the Divisional Commissioner, Patiala though in the said order, it was noticed for the first time in the merits that the present appellant is 31 years of age and studied upto 12th class and had done one year Diploma in Computer Application. Thus, apparently, the order passed by the Collector was perverse to that extent.

6. The Learned Financial Commissioner had adversely commented upon the selected candidate, Gurpreet Singh and he thus being left out of the zone of consideration, the appellant would be the only person left to be considered. This aspect has rightly been noticed by the Learned Single Judge and corrected. If the argument of counsel for the appellant is to be accepted, in the absence of any other competition, he would automatically be entitled for selection, which would not be appropriate. The reasoning is that deserving candidate from the village should be given opportunity and 3 applications each had been withdrawn in favour of the respective candidate and therefore, the Collector never inter-se discussed the merits of both the candidates. It is not for this Court to substitute or appoint the present appellant solely on the ground that the writ petitioner was illegally appointed as the said order was suffering from perversity. However, the appellant cannot be permitted to have a walk over as contended by his counsel and he will necessarily have to file his application in pursuance of the fresh publication to be issued in pursuance of the order of the Learned Single Judge so that the best candidate from the village is selected after considering the merits of all.

7. Resultantly, we do not find any merit in the present appeal and the same is hereby dismissed. Needless to say that since the post is now vacant, the Collector shall expedite the process of selection and make efforts to complete it within 3 months from the date of publication. All pending application(s), if any, stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

03.07.2024

Sailesh

(VIKAS BAHL)
JUDGE

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