

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-14894-2022
Date of Decision: 18.10.2024

Varinder Singh
..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. R.S. Chauhan, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG, Punjab.

HARSH BUNGER J. (ORAL)

Petitioner (Varinder Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 07.03.2022 (Annexure P-21) passed by the learned Financial Commissioner (Appeals), Punjab; whereby orders dated 29.05.2013 (Annexure P-14) and 28.07.2016 (Annexure P-17) passed by the learned District Collector, Ferozepur and learned Commissioner, Ferozepur Division, Ferozepur, respectively; thereby appointing the petitioner (Varinder Singh) as Lambardar of Village Mamdot Hithar, Tehsil and District Ferozepur; have been set aside and respondent No.4 (Jarnail Singh) has been appointed as the Lambardar of Village

Mamdot Hithar, Tehsil and District Ferozepur.

2. At the outset, it is noticed that respondent No.4 was proceeded against *ex parte* by this Court vide order dated 12.07.2024.

3. Briefly, on account of demise of Sh. Hari Singh, previous Lambardar of Village Mamdot Hithar, Tehsil and District Ferozepur; proceedings for filling up the said vacancy were initiated. In pursuance thereof, eight applications (including the one submitted by the petitioner and another by respondent No.4) were received.

3.1 The learned Naib Tehsildar, Mamdot; learned Tehsildar, Mamdot as well as learned Sub Divisional Magistrate, Ferozepur recommended the name of present petitioner for appointment to the post of Lambardar.

3.2 The learned District Collector, Ferozepur, upon appreciating the relative merits and demerits of all the candidates, appointed petitioner (Varinder Singh) as Lambardar of Village Mamdot Hithar, vide order dated 29.05.2013 (Annexure P-14).

4. Being aggrieved against the aforesaid order (Annexure P-14), respondent No.4 preferred an appeal before the learned Divisional Commissioner, Ferozepur, which came to be dismissed vide order dated 28.07.2016 (Annexure P-17).

5. Still aggrieved, respondent No.4 filed a petition, bearing ROR No.28 of 2017, before the learned Financial Commissioner (Appeals), Punjab, which came to be allowed vide order dated 07.03.2022 (Annexure P-21); whereby orders dated 29.05.2013 (Annexure P-14) and 28.07.2016 (Annexure P-17) passed by the learned District Collector, Ferozepur and learned Commissioner, Ferozepur Division, Ferozepur, respectively, were set aside and respondent No.4 (Jarnail Singh) was appointed as Lambardar of Village Mamdot Hithar.

6. In the aforementioned circumstances, petitioner has filed the present writ petition before this Court, seeking relief(s) as noticed hereinabove.

7. Heard.

8. In the instant case, the learned District Collector, Ferozepur, appointed the petitioner as Lambardar of Village Mamdot Hithar, vide order dated 29.05.2013 (Annexure P-14); by finding him more suitable for the post of Lambardar, inasmuch as that the petitioner was more educated and also younger in age as compared to the other candidates. The learned District Collector further observed that petitioner's name was also recommended by the lower Revenue Officials for the post of Lambardar.

9. The Collector's order (Annexure P-14) was further upheld by the learned Divisional Commissioner, Ferozepur, vide order dated 28.07.2016 (Annexure P-17).

10. However, the learned Financial Commissioner (Appeals), Punjab, vide its order dated 07.03.2022 (Annexure P-21), has set aside the aforesaid orders (Annexures P-14 and P-17) passed by the learned District Collector and the learned Divisional Commissioner; and respondent No.4 (Jarnail Singh) has been appointed as Lambardar of Village Mamdot Hithar; on the sole ground that the petitioner was involved in the criminal case(s), although later on, he was discharged by the learned Judicial Magistrate Ist Class, Ferozepur vide order dated 25.08.2011.

10.1 It was observed by the learned Financial Commissioner that if a person has been tried in a criminal case and thereafter acquitted, yet the stigma of being tried in a criminal case would be attached to his candidature.

11. A Division Bench of this Court in *Shiv Dayal v. The Financial Commissioner Haryana and others 2007 (27) S.C.T. 167*, held that mere

filing of complaint against a candidate for the post of Lambardar, is not a disqualification unless the same culminates into conviction. In the present case, the petitioner already stands discharged and acquitted from the criminal case(s). If it is viewed that the acquittal will still carry some stigma then there would hardly be any distinction between acquittal and conviction. If the distinction between acquittal and convictions is not maintained and both are equated, obviously then acquittal would not mean anything but deem to be a conviction.

12. I am of the considered opinion that in the facts and circumstances of this case, the order dated 07.03.2022 (Annexure P-21) passed by the learned Financial Commissioner (Appeals), Punjab is unwarranted and unsustainable because except the involvement of the petitioner in the criminal case(s), there is no other deficiency pointed out by the learned Financial Commissioner against him.

13. It is well settled that in the matter of appointment of Lambardar, the choice of learned Collector is not to be lightly interfered with, even if two views are possible; as held by a Division Bench of this Court in ***“Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab”, 2016(1) RCR (Civil) 273.***

14. Keeping in view the aforementioned facts and circumstances, order dated 07.03.2022 (Annexure P-21) passed by the learned Financial Commissioner (Appeals), Punjab is set aside. Resultantly, the instant writ petition is allowed and order dated 29.05.2013 (Annexure P-14) passed by the learned District Collector, Ferozepur, appointing the petitioner as Lambardar of Village Mamdot Hithar, Tehsil and District Ferozepur; is upheld. It goes without saying that if the petitioner has attracted any

disqualification in terms of Rule 16 of the Land Revenue Rules; in that

eventuality, the learned Collector can very well take steps in accordance with law.

15. All pending application(s), if any, shall also stand closed.

18.10.2024
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No