

2024:PIIIC:130142-DJ



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

LPA No.1409 of 2024 (O&M)

Reserved on: 08.08.2024

Date of Decision: 01.10.2024

Amrik Singh

.....Appellant.

Versus

Financial Commissioner, Punjab and others

.....Respondents.

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

Argued by:- Mr. Ashish Aggarwal, Senior Advocate with
Mr. Lal Singh Sandhu, Advocate,
Ms. Pooja Sareen, Advocate and
Mr. Vishal Pundir, Advocate
for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab
for respondents No.1 to 3.

Mr. Vikas Mehsempuri, Advocate
for respondent No.4-Caveator.

Mr. Babbar Bhan, Advocate
for respondent No.8.

MEENAKSHI I. MEHTA, J.

By filing the instant Letters Patent Appeal, the appellant has
laid challenge to the judgment handed down by learned Single Judge on
30.04.2024, whereby the *Civil Writ Petition No.23265 of 2018* preferred
by respondent No.4 for seeking the quashing of the orders Annexures P-6,
P-3 and P-1 passed by respondent No.1-Financial Commissioner, Punjab,



respondent No.2-Divisional Commissioner and respondent No.3-District Collector, Patiala on 16.07.2018, 04.05.2016 and 05.01.2016 respectively, has been allowed and the case has been remanded to respondent No.3 with the direction to decide the same afresh after hearing both the parties and appreciating the relevant record.

2. Bereft of unnecessary details, the facts, as emerging from the perusal of the file and resulting in the filing of the present appeal, are that respondent No.4-Jagsir Singh filed the above-referred CWP, while averring that consequent upon the demise of Tarlochan Singh, the Lambardar of Village Shutrana, Tehsil Patran, District Patiala, the post of Lambardar had fallen vacant and the process for the appointment of new Lambardar was initiated. Seven (07) persons had applied for the afore-mentioned post and on completion of necessary formalities, the name of the appellant (arrayed as respondent No.4 in the CWP) had been recommended and forwarded by Assistant Collector Grade II-cum-Naib Tehsildar and Assistant Collector Grade I-cum-Sub-Divisional Magistrate, Patran, for his appointment on the above-said post. After considering and comparing the merits and de-merits of the appellant and respondent No.4, Respondent No.3 observed that the appellant was more suitable for the afore-referred post and accordingly appointed him as such, vide the order Annexure P-1 passed on 05.01.2016. However, respondent No.4 preferred an appeal to respondent No.2 under Section 13 of the Punjab Land Revenue Act, 1887 (for short 'the Act of 1887') but the same was dismissed on 04.05.2016 vide the order Annexure P-3. Thereafter, respondent No.4 opted to avail the statutory remedy under



Section 16 of the Act of 1887 by moving a revision-petition to respondent No.1, who dismissed the same vide the order Annexure P-6 as passed on 16.07.2018. Finally, respondent No.4 approached this Court for seeking the redressal of his grievance by filing the above-said CWP which came to be allowed vide the impugned judgment, as already indicated in the opening para of this judgment.

3. We have heard learned Senior counsel for the appellant as well as learned State counsel for respondents No.1 to 3 and learned counsel for respondent No.4 in the instant appeal and have also gone through the file carefully.

4. Learned Senior counsel for the appellant has contended that respondent No.3-District Collector had passed the order Annexure P-1 qua the appointment of the appellant as Lambardar, after properly considering the merits and de-merits of the appellant and respondent No.4 and hence, the same has to be respected and moreover, the afore-mentioned order has been upheld by respondents No.2 and 1 by rejecting the appeal and the revision-petition vide orders Annexures P-3 and P-6 respectively and to add to it, the appellant did have the experience of working as Lambardar earlier also, to his credit but learned Single Judge has ignored the above-described crucial aspects of the matter while handing down the impugned judgment. To buttress his contentions, he has relied upon the judgments passed by this Court in **Kuldip Singh Vs. Jagjit Singh and others, 2014(2) RCR (Civil) 296 (DB); Phool Kumar Vs State of Haryana and others, 2010(2) RCR (Civil) 819 (DB); Amrik Singh Vs Financial Commissioner,**



Punjab and others, 2018(2) L.A.R. 517 (SB) and Swaran Singh Vs The Financial Commissioner, Revenue, Punjab and others, 2014(3) RCR (Civil) 259 (DB).

5. He has, further, contended that though respondent No.4 is younger to the appellant but mere age is not the key decisive factor/criteria for the appointment of Lambardar. In support of this contention, he has placed reliance upon the judgments handed down by this Court in Jagdish Singh Vs State of Punjab and others, 2014(36) RCR (Civil) 157 (DB); Ram Kumar Vs The Financial Commissioner, Haryana and others, 2013(1) PLJ 240 (DB) and Ajay Kumar @ Mange Ram Vs. Financial Commissioner, Haryana & others, 2011(53) RCR(Civil) 594 (SB).

6. Lastly, he has contended that learned Single Judge has not observed in the impugned judgment that the orders Annexures P-6, P-3 and P-1 suffered from perversity and hence, this judgment deserves to be set-aside. To corroborate his contention, he referred to the verdicts as rendered by Hon'ble Supreme Court in Mahavir Singh Vs Khiali Ram and others, 2009(3) SCC 439 and Ishwar Singh Vs Satbir Singh and others, 2009(3) RCR(Civil) 955 and also by this Court in Rattan Singh Vs The Financial Commissioner, Haryana and others, 2014(4) RCR (Civil) 414 (DB).

7. Per contra, learned counsel for respondent No.4 has argued that respondent No.4 is younger to the appellant and is more qualified than him and has clean antecedents and though the appellant had been appointed as Lambardar earlier but it has been observed by this Court in the judgment Annexure P-7 passed on 15.03.2011 that he had mis-represented and had



also concealed the material facts at that time and it being so, the present appeal is liable to be dismissed.

8. As regards the contention qua upholding/respecting the choice of respondent No.3-Divisional Collector regarding the appointment of the appellant as Lambardar vide the order Annexure P-1 and his (appellant's) experience of working as such earlier, it is pertinent to mention here that the Apex Court has categorically held in **Mahavir Singh (supra)** that "*a Writ Court could interfere with a finding of fact when the same, inter-alia, is found to be perverse*". The afore-referred judgment Annexure P-7 had been passed in **CWP No.7094 of 2010**, as filed by the appellant earlier to assail the appointment of Tarlochan Singh as Lambardar and its perusal reveals that while dismissing the said writ petition, learned Single Judge had made the following observations against the appellant therein:-

"9. So far as the petitioner is concerned, he is 40 years of age, owns 18 acres of land and has support of 204 persons of the village. Admittedly, the petitioner does not belong to the family of Sunder Singh, deceased Lambardar, and therefore, it is made evident that the petitioner wrongly claimed the benefit of hereditary claim.

10. On a pointed question of the Court, learned counsel for the petitioner has not been able to show that the petitioner is literate. All that has been contended is that the petitioner is 8th class fail.

11. Considering the facts and circumstances of the case in totality, I am of the considered view that the Financial Commissioner has not committed any illegality in accepting the revision of respondent



No.4 and directing appointment of respondent No.4 as Lambardar. Surely, respondent No.4 is more educated which, in my considered opinion, would be a very relevant circumstance for appointment of a Lambardar. The petitioner claims benefit of hereditary claim which, in fact, was never there. The petitioner clearly is not literate.”

9. However, throughout in the order Annexure P-1, respondent No.3-District Collector, has not even whispered about the above-quoted observations, meaning thereby that these were not taken into consideration by him at the time of comparing the merits and de-merits of the appellant and respondent No.4 *inter-se* and this omission on his part unequivocally speaks volumes of the fact that order Annexure P-1 qua the appointment of the appellant as Lambardar, is nothing short of being perverse. Then, in his order Annexure P-3 regarding the dismissal of the appeal as preferred by respondent No.4, respondent No.2-Divisional Commissioner has also kept silent on the afore-mentioned aspect despite the fact that in para No.11 in the Grounds of Appeal Annexure P-2, respondent No.4 had highlighted the above-narrated facts. Though, in his order Annexure P-6, respondent No.1 has referred to the judgment Annexure P-7 but he has brushed aside the same by merely observing that it did not have any bearing on the case and this Court had not passed any stricture therein against the respondent, i.e the present appellant but however, these observations are fallacious and therefore, the same do not come to the rescue of the appellant.

10. The observations made by this Court in **Kuldip Singh (supra)**; **Phool Kumar (supra)**; **Amrik Singh (supra)** and **Swaran Singh (supra)**



are of no avail to the appellant because the facts and circumstances of the instant case are distinguishable from those of the referred above. In **Kuldip Singh (supra)**, the Collector had noted that the respondent, being the son of the deceased Lambardar, needed to be given some benefit and hence, his appointment was upheld but in this case, it has specifically been observed in the judgment Annexure P-7 that the present appellant had wrongly set-forth the hereditary claim. Further, in **Phool Kumar (supra)**; **Amrik Singh (supra)** and **Swaran Singh (supra)**, all that had been held was that it was an established principle that there should be no interference with the choice made by the Collector but it did not follow that where the Collector's order had been passed on the mis-representation of facts or was perverse or arbitrary, there should still be no interference whereas in the present case, though as discussed above, the factum of mis-representation of the facts by the appellant on the occasion of his earlier appointment, was duly noticed and considered in the judgment Annexure P-7 but respondents No.1 to 3 have erroneously ignored the same at the time of passing the respective orders Annexures P-6, P-3 and P-1.

11. So far as the contention regarding the age not being the sole criteria for the appointment of Lambardar, is concerned, it is again worthwhile to point it out here that learned Single Judge has made the following observations in the impugned judgment:-

“5. x x x x

Though there is no minimum qualification under the Act but this is an admitted fact that the petitioner was much more qualified than respondent No.4.



Earlier writ petition filed by respondent No.4 was disposed of by this Court vide order dated 15.03.2011 and it has been observed by this Court in the order that respondent No.4 Amrik Singh on a pointed question could not show that he was literate and thus, there was only a contention that he was 8th class fail. However, on the appreciation of the record of the case, the Court finds that the Collector and subsequent authorities have failed to take into consideration these relevant factors for deciding the suitability of the candidates in the fray.”

6. x x x x

7. *Thus, this Court finds that overlooking the relevant factors has adversely effected the decision taken for the appointment of Lambardar. Hence, finding the impugned orders dated 16.07.2018, 04.05.2016 & 05.01.2016 to be unsustainable in the eyes of law, the same are set aside as merits and demerits of the candidates i.e. the petitioner and respondent No.4 deserve to be re-appreciated on the anvil of law settled.”*

The afore-cited observations make it crystal clear that learned Single Judge did not allow the CWP merely on the basis of the factum of respondent No.4 being younger to the appellant and therefore, the verdicts rendered in **Jagdish Singh (supra)**; **Ram Kumar (supra)** and **Ajay Kumar @ Mange Ram (supra)** also do not help the appellant to further his cause.

12. The last contention regarding learned Single Judge having not recorded the finding qua perversity in the orders as passed by respondents No.1 to 3, also does not cut much ice because in **Mahavir Singh (supra)**, it



has been held that where the Collector had considered the merits of the candidates and had followed the procedure laid down in the Rules and had also observed the principles of natural justice, his findings could not be construed to be perverse but as discussed in the preceding paragraphs, the above-quoted observations, made by learned Single Judge in the impugned judgment, lead to the only irresistible conclusion about the perversity in the afore-mentioned orders passed by respondents No.1 to 3.

13. In *Ishwar Singh (supra)* also, Hon'ble the Supreme Court had directed the High Court to examine the issue of appointment of Lambardar afresh while observing that the High Court had set-aside the order of the Commissioner and Financial Commissioner without any reasons whereas from the above-cited observations of learned Single Judge, it is explicit that he has advanced cogent and convincing reasons while interfering with the orders of the afore-referred official respondents.

14. Then, in *Rattan Singh (supra)*, the Division Bench had held that the hereditary claim of any candidate, in whatever form, could not be considered as relevant factor while appointing a Lambardar and such claim was repugnant to the principle of equality. However, in the present case, respondent No.4 has not staked his claim on the post of Lambardar on the above-said basis and rather, it was the appellant, who had put-forth the afore-referred claim but the same had been repelled/rejected by learned Single Judge in the judgment Annexure P-7.

15. As a sequel to the foregoing discussion and in view of the findings as recorded by the learned Single Judge, we are of the considered

opinion that there is no cogent reason/ground to interfere in the impugned judgment. Resultantly, the appeal in hand, being *sans* any merit, stands dismissed accordingly.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

October 01st, 2024

Yag Dutt

Whether speaking/reasoned:

Whether Reportable:

Yes

No