



LPA-1507-2024(O&M)

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

\*\*\*

LPA-1507-2024(O&M)

Date of decision : 08.07.2024

Satpal Singh

... Appellant

Versus

Ld. Financial Commissioner (Appeals), Punjab and others

... Respondents

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

Present: Mr.Sunny K. Singla, Advocate  
for the appellant.

Mr.Saurav Khurana, Addl.A.G. Punjab.

**VIKAS BAHL, J.**

1. Challenge in the present Letters Patent Appeal is to the judgment dated 17.05.2024 passed by the learned Single Judge in CWP-5517-2018 vide which while remanding the case to the Collector, it has been observed that the Collector would initiate the process for appointment of new SC Lambardar by inviting fresh applications and till the time the fresh decision is taken, the present appellant-petitioner, who is working as scheduled caste Lambardar, would continue to work on the said post.

2. Brief facts of the present case are that the Commissioner, Patiala Division vide memo no.MS/4948 dated 22.08.2013 had ordered for

**LPA-1507-2024(O&M)****2**

the creation of the post of scheduled caste Lambardar in village Mehon and thereafter the office of the District Collector, Patiala vide order dated 13.09.2013 had given sanction for filling the above mentioned vacant post of Lambardar. The mushtri munadi in the village was conducted for inviting the applications of the interested candidates for the said post and as many as 10 persons including the petitioner and Jagwinder Singh had applied for the said post. Most of the applicants withdrew their applications and ultimately only the present appellant Satpal Singh and Jagwinder Singh were left in the fray.

3. The Sub Divisional Magistrate, Patiala, vide its report dated 12.09.2014 had recommended the candidature of the present appellant for the said post. The Collector vide order dated 24.11.2015 (Annexure P-1), after taking into consideration the merits and demerits of both the candidates, appointed the present appellant as Lambardar to the post in question. A perusal of the order dated 24.11.2015 (Annexure P-1) would show that the arguments raised by the present appellant to the effect that he was 34 years of age as compared to Jagwinder Singh, who was 44 years of age and also to the effect that the said Jagwinder Singh was working as a doctor (RMP) at Bhai Ghanhiya Lal Medical Hall at Devigarh and was present for most of the time at the shop / clinic and as such was not available in the village, was noticed. The Collector had further observed that the aspect of the absence of said Jagwinder Singh from the village on account of the above was fortified from the fact that the Sub Divisional Magistrate had stated in his report that after conducting secret inquiry, it

**LPA-1507-2024(O&M)****3**

had been found that the said Jagwinder Singh was working as a doctor at Devigarh.

4. The said Jagwinder Singh filed an appeal before the Commissioner and the Commissioner vide order dated 26.05.2016 dismissed the said appeal. A perusal of the said order would show that the Commissioner had taken into consideration the fact that the present appellant was a permanent resident of the village and was 34 years of age and was also a social worker who took active part in the welfare of the village and did not take part in any political activity nor belonged to any political party and his name had also been recommended by the Naib Tehsildar as well as by the Sub Divisional Magistrate, whereas on the other hand, the said Jagwinder Singh was doing medical practice at Devigarh and remained absent from the village. It was further observed that it was a matter of settled law that the choice of the Collector should not be disturbed unless and until it suffers from perversity or patent discrepancy. The said Jagwinder Singh filed a revision petition before the Financial Commissioner and the Financial Commissioner vide order dated 19.02.2018 allowed the said revision petition on surmises and conjectures and set aside the order dated 26.05.2016 and 24.11.2015 and remanded the case to the Collector, Patiala, to reconsider the merits and demerits of both the candidates i.e., the present appellant and Jagwinder Singh after affording an opportunity of being heard to them.

5. The present appellant filed CWP-5517-2018 challenging the order of the Financial Commissioner and the case came up for hearing



LPA-1507-2024(O&amp;M)

4

before the learned Single Judge on 08.03.2018, on which date the learned Single Judge was pleased to pass the following order:-

*“Present : Mr. Sunny K. Singla, Advocate for the petitioner.*

*\* \* \**

*Learned counsel for the petitioner inter alia contends that after considering the respective merit of all the candidates, the order passed by the authorities below upto the level of Commissioner has been set aside by the Financial Commissioner without considering the findings recorded by the authorities below and case has been remanded.*

*Notice of motion for 13.07.2018.*

*Meanwhile, operation of impugned order dated 19.02.2018 (Annexure P-3) shall remain stayed till next date of hearing.*

**08.03.2018”**

Thus, the operation of the order dated 19.02.2018 (Annexure P-3) was stayed and the appellant continued to work as Lambardar. Thereafter the respondent no.4 died and objection was raised on behalf of learned counsel for respondent no.4 that the present petition has been rendered infructuous. The learned Single Judge vide order dated 03.12.2018 rejected the said objection and the interim order was made to continue. The said order dated 03.12.2018 is reproduced hereinbelow:-

*“Present: Mr. Sunny K. Singla, Advocate, for the petitioner.*

*Ms. Kanica Sachdeva, AAG, Punjab  
for respondents No.1 to 3.*

*- \* -*

*Mr. M.S. Dhami, Advocate, states that Jagwinder Singh son of Ramesh Singh – respondent No.4 has since expired and therefore, the present writ petition has been rendered infructuous.*

*This contention cannot be accepted in the light of the fact that the petitioner was initially appointed by the District Collector and thereafter, the said appointment was upheld by the Commissioner, Patiala, which, when challenged by respondent No.4, had led to the*



LPA-1507-2024(O&amp;M)

5

*passing of the impugned order dated 19.02.2018 (Annexure P-3) setting aside the said appointment order.*

*Adjourned to **15.03.2019** for consideration.*

*Interim order to continue till further orders.*

***December 03, 2018”***

6. The learned Single Judge vide order dated 17.05.2024 instead of setting aside the order of the Financial Commissioner as the order of the Financial Commissioner was illegal and also in view of the subsequent development of respondent no.4 having died, disposed of the writ petition in the terms which have been mentioned in para 1 of the present order.

7. Learned counsel for the appellant has submitted that the order of the learned Single Judge dated 17.05.2024 as well as the order of the Financial Commissioner dated 19.02.2018 deserve to be set aside on the following grounds:-

i) The Collector, who is the appointing authority, had, after considering the merits of both the candidates i.e., Satpal and Jagwinder Singh, appointed the present appellant as Lambardar. The said order was upheld by the Commissioner but was set aside by the Financial Commissioner in violation of settled law to the effect that the choice of the Collector is not to be interfered with unless the same is perverse, which was not the case in the present case.

ii) It is submitted that once respondent no.4 had died and the present appellant had continued to discharge his duties as Lambardar in pursuance of the order of the Collector dated



24.11.2015 and there was nothing on record to show that there was anything against him, then, the appointment of the present appellant should have been upheld as no one was opposing his candidature.

iii) It is submitted that in pursuance of the impugned judgments/ orders, the process which had started in the year 2013-14 has been set at naught without there being any observation that the present appellant who had been appointed by the Collector suffered from any demerit much less disqualification.

iv) It is submitted that the process was in accordance with law and due mushtri munadi in the village was conducted and 10 persons had applied and ultimately the present appellant and Jagwinder Singh remained in the fray and it was nobody's case that any other person, desirous of being appointed as Lambardar was not permitted to apply or was not considered.

v) It is submitted that the Hon'ble Supreme Court in the case of ***Mahavir Singh vs. Khiali Ram & others*** reported as ***2009(3) SCC 439*** had observed that age of the candidates is a very relevant factor for appointment of Lambardar. The relevant portion of the said judgment which has been highlighted by learned counsel for the appellant is reproduced hereinbelow:-



LPA-1507-2024(O&amp;M)

7

*view the decisions in regard to the appointment of Lambardar in the State of Punjab, that age of a candidate is a relevant factor.”*

It is submitted that the present appellant is younger in age than the said Jagwinder Singh and thus, the law laid down in the above said judgment furthers the case of the present appellant and the said fact as well as all other relevant factors had been considered by the Collector in appointing the present appellant as Lambardar.

8. Learned State counsel has submitted that in the present case, he represents respondents no.1 to 3 who are quasi-judicial authorities, who have passed the orders and Jagwinder Singh, who was the sole contesting respondent, has died.

9. We have considered the matter at length and have perused the paper book and are of the opinion that the order of the learned Single Judge dated 17.05.2024 as well as the order of the Financial Commissioner dated 19.02.2018 (Annexure P-3) deserve to be set aside and the order of the Collector dated 24.11.2015 (Annexure P-1) and order of the Commissioner dated 25.05.2016 (Annexure P-2) being in accordance with law, deserve to be upheld for the reasons mentioned hereinbelow.

10. It is not in dispute that the Collector vide order dated 24.11.2015 (Annexure P-1) after considering the merits and demerits of the present appellant and Jagwinder Singh had appointed the present appellant as scheduled caste Lambardar of village Mehon. The said order had taken

into consideration the fact that mushtri munadi was duly conducted and in



pursuance of the same, 10 persons had applied including the present appellant and Jagwinder Singh. It also took into consideration the fact that the present appellant was recommended by the Sub Divisional Magistrate, Patiala for being appointed as Lambardar and was 34 years of age as compared to Jagwinder Singh being 44 years of age and also the fact that the present appellant remained present in the village whereas as per the report of the Sub Divisional Magistrate, Patiala, it had been found that the said Jagwinder Singh was working as a doctor (RMP) at Bhai Ghanhiya Lal Medical Hall at Devigarh and most of the time remained present at the Clinic and thus, remained absent from the village.

11. It is a matter of settled law that the Collector is the appointing authority in the case of a Lambardar and the Commissioner or the Financial Commissioner should not interfere in the order of the Collector unless the said order of the Collector was found to be perverse. It is not for the Commissioner or the Financial Commissioner to reconsider the merits of the candidates or to interfere with the choice of the Collector even if two views are possible. On the said aspect, reference can be made to the judgment of the Division Bench of this Court in CWP-19720-2001 decided on 18.12.2001 titled as ***“Sarwan Kumar vs. The Financial Commissioner Appeals-I, Punjab”*** reported as ***2002(2) RCR (Civil) 520*** as well as the judgment of the Division Bench of this Court in LPA-107-2023 titled as ***“Sukhpal Singh vs. State of Punjab and others”*** decided on 06.02.2023 as also to the judgment of the Division Bench in LPA-291-2013 titled as ***“Balwinder Singh vs. State of Punjab and others”, decided on 23.04.2013.***

**LPA-1507-2024(O&M)****9**

12. The Commissioner, keeping in view the above principles had rightly upheld the order of the Collector vide order dated 25.05.2016 (Annexure P-2). However, learned Financial Commissioner in violation of the said principles of law and without finding any demerit in the present appellant, set aside the order of the Collector and the Commissioner and remanded the matter to the Collector to reconsider the merits and demerits of both the candidates i.e, the present appellant and Jagwinder Singh. As has been stated hereinabove, it had been brought to the notice of learned Single Judge that respondent no.4 had died and thus, at that stage, the order of the Financial Commissioner should have been set aside as apart from the same being illegal and not in accordance with settled law, the question of considering the merits and demerits of respondent no.4, vis-a-vis the appellant did not survive as respondent no.4 had died. The learned Single Judge instead of setting aside the order of the Financial Commissioner, further remanded the matter to the Collector for inviting fresh applications and for initiating the process of appointment of new scheduled caste Lambardar, thereby setting at naught the process which had started in the year 2013-14.

13. Once the eligible candidate i.e., the present appellant, who was duly appointed by the Collector, was available and had been discharging the duties for the last more than 8 years, without there being anything on record to suggest any demerit or disqualification against him and without even opining that there was any perversity in the order of the Collector or that of the Commissioner, the direction given by the learned Single Judge, in our



LPA-1507-2024(O&M) 10

opinion, in the facts and circumstances of the present case was uncalled for. It is nobody's case that any other eligible applicant was not permitted to apply or was not aware of the proceedings. A perusal of the order of the Collector would show that in pursuance of the mushtri munadi, 10 persons had applied. There was neither any infirmity in the procedures nor in the orders passed by the Collector and the Commissioner and Jagwinder Singh had also died during the pendency of the writ petition and thus, in the facts and circumstances of the present case, we are of the opinion that the orders of the Collector and the Commissioner deserve to be upheld and the order of the Financial Commissioner and that of the learned Single Judge deserve to be set aside.

14. Keeping in view the abovesaid facts and circumstances, the present appeal is allowed and the orders of the Single Judge dated 17.05.2024 as well as the order passed by the Financial Commissioner dated 19.02.2018 are set aside and the order of the Collector appointing the present appellant as scheduled caste Lambardar of village Mehon and the order of the Commissioner dated 25.05.2016 are upheld.

(G.S.SANDHAWALIA)  
ACTING CHIEF JUSTICE

(VIKAS BAHL)  
JUDGE

July 08, 2024  
Davinder Kumar

|                             |        |
|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |