

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14909-2024 (O/M)

Date of decision : 13.08.2024

Sham Sunder

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Yaseen Sethi, Advocate
for the petitioner.

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HARSH BUNGER, J.

1. Petitioner (Sham Sunder) has filed the instant civil writ petition under Article 226 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 11.11.2020 (Annexure P-3), passed by learned Divisional Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner') whereby the appeal filed by respondent No. 6 (Balwinder Singh) against his dismissal order dated 05.11.2019 (Annexure P-1) from the post of Lambardar of village Nangal Jamalpur, Tehsil Jalandhar-I, District Jalandhar; was allowed.

1.1 A further prayer has been made by the petitioner for setting aside the order dated 28.08.2023 (Annexure P-6), passed by the learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner'), whereby the revision petition filed by the petitioner against order dated 11.11.2020 (Annexure P-3) has been dismissed.

1.3 Another prayer has been made by petitioner for setting aside the order dated 23.03.2021 (Annexure P-5), passed by learned Collector, Jalandhar (in short 'Collector') whereby the proceedings initiated for filling up the vacancy of Lambardar of village Nangal Jamalpur, which had arisen on account of dismissal of respondent No. 6; were ordered to be closed in the light of the order dated 11.11.2020 (Annexure P-3).

2. Briefly, respondent No. 6 (Balwinder Singh) was the Lambardar of village Nangal Jamalpur, Tehsil Jalandhar-I, District Jalandhar; who was dismissed from the said post by the then learned Collector, vide order dated 05.11.2019 (Annexure P-1) and a further direction was passed to appoint new Lambardar in his place.

2.1 It transpires that in pursuance to the proceedings initiated for filling up the aforesaid vacancy, the present petitioner applied for the post of Lambardar.

2.2 It appears that respondent No. 6 challenged his dismissal order dated 05.11.2019 (Annexure P-1) by preferring an appeal before the learned Divisional Commissioner, which came to be allowed, vide order dated 11.11.2020 (Annexure P-3) whereby the order dated 05.11.2019 (Annexure P-1) was set aside and respondent No. 6 (Balwinder Singh) was ordered to be reinstated as Lambardar.

2.3 It further appears that in the light of ,order dated 11.11.2020 (Annexure P-3), the learned Collector, vide its order dated 23.03.2021 (Annexure P-5), directed closure of proceedings for filling up the vacancy of Lambardar of village Nangal Jamalpur as respondent No. 6 (Balwinder Singh) stood reinstated to the said post of Lambardar.

2.4 The petitioner challenged the order dated 11.11.2020 (Annexure P-3) as well as the order dated 23.03.2021 (Annexure P-5) by filing a revision petition (ROR-725-2021) before the learned Financial Commissioner. The said revision petition was dismissed by the learned Financial Commissioner, vide its order dated 28.08.2023 (Annexure P-6).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. Learned counsel for petitioner submits that the impugned orders are wrong and illegal, therefore, the same are liable to be set aside. It is further submitted that respondent No. 6 had wrongly attested the scheduled caste certificate of a person, namely, Major Singh, although Major Singh was not a scheduled caste. It is next submitted that respondent No. 6 was rightly dismissed from the post of Lambardar, however, he was wrongly reinstated by the learned Divisional Commissioner, vide impugned order dated 11.11.2020 (Annexure P-3) by ignoring the fact that respondent No. 6 does not have clean antecedents, inasmuch as that one case FIR stood registered against him. It is submitted that on account of dismissal of respondent No. 6, fresh proceedings were initiated for filling up the vacancy wherein the name of the petitioner was recommended for appointment to the vacant post of Lambardar. It is further submitted that the petitioner has clean antecedents and more meritorious than respondent No. 6, therefore, the impugned orders be set aside.

5. I have heard learned counsel for petitioner and have also perused the paperbook with his able assistance.

6. Concededly, respondent No. 6 was dismissed from the post of Lambardar and thereafter fresh proceedings were initiated for filling up the vacancy, wherein the petitioner applied for the vacancy and his name was recommended by the lower revenue officers for appointment to the post of Lambardar. In the meanwhile, respondent No. 6 challenged his dismissal order before the learned Divisional Commissioner by filing an appeal, which was allowed, vide order dated 11.11.2020 (Annexure P-3), whereby the dismissal order dated 05.11.2019 (Annexure P-1) was set aside and respondent No. 6 was reinstated to the post of Lambardar. Consequently, the proceedings, which were initiated for filling up the vacancy, were ordered to be closed by the learned Collector, vide order dated 23.03.2021 (Annexure P-5).

6.1 The revision petition filed by the petitioner was dismissed by the learned Financial Commissioner, vide his order dated 28.08.2023 (Annexure P-6), the relevant extract of which reads as under :-

“5. I have heard and considered the arguments advanced by Ld. Counsel for the parties and perused the orders of the courts below. On perusal of the file, I find that the District Collector, Jalandhar removed the respondent No. 2 from the post of lambardar on the complaint made by Jaswant Kaur w/o Satpal, resident of village Nangal Salempur, District Jalandhar. Aggrieved by this, the respondent No. 2 filed an appeal before the Commissioner, Jalandhar Division, Jalandhar who vide order dated 11.11.2020, set-aside the order dated 05.11.2019, passed by the District Collector, Jalandhar and ordered to re-instate the

respondent No. 2 to the post of lambardar of the village Nangal, Jamalpur, Industrial Town, Jalandhar. The Commissioner, Jalandhar Division, Jalandhar in his order dated 11.11.2020 at para No. 4 has mentioned that “it is clear that there was no malafides in the mind of the appellant and he attested the document with a genuine belief”. Before this court, although the petitioner is claiming that respondent No. 2 has attested the S.C. certificate of one Major Singh who belonged to 'Kamboj' category, but he could not produce any evidence that the respondent No. 2 has attested the said certificate with malafide and bad intention. Moreover, the petitioner has no locus-standi to file the present revision petition because the petitioner was not a complainant in this case. In the present case, Jaswant Kaur w/o Satpal resident of village Salempur, District Jalandhar was the complainant. Therefore, keeping in view the facts and circumstances of the present, I am of the view that present revision petition is devoid of merits and liable to be set aside.

6. Resultantly, the present revision petition is dismissed and the order dated 23.03.2021, passed by the District Collector, Jalandhar and the order dated 11.11.2020, passed by the Commissioner, Jalandhar Division, Jalandhar is upheld..... “

6.2 Learned counsel for petitioner is unable to dislodge the aforesaid observations made by the learned Financial Commissioner. Evidently, the petitioner applied for the post of Lambardar of village Nangal Jamalpur, consequent upon the dismissal of respondent No. 6 from the said post, however, on appeal before the learned Divisional

Commissioner, the dismissal order of respondent No. 6 was set aside and he was reinstated as Lambardar. Resultantly, the proceedings initiated for filling up the vacancy, which had arisen on account of dismissal of respondent No. 6 from the post of Lambardar; had to be closed upon reinstatement of respondent No. 6, which was rightly done by the learned Collector, vide its order dated 23.03.2021 (Annexure P-5).

6.3 Further, no fault can be found with the observations made by the learned Financial Commissioner in its order dated 28.08.2023 (Annexure P-6) that the petitioner has no locus-standi as he was not complainant in the case.

6.4 As regards contention of the petitioner that respondent No. 6 does not have clean antecedents as an FIR has been registered against him, it is observed that the number of such FIR, as alleged to have been lodged against respondent No. 6, is not forthcoming nor any copy of such FIR has been attached with the writ petition. Be that as it may, in case any case FIR has been registered against respondent No. 6, then the concerned authorities can always proceed in accordance with law.

7. Keeping in view the aforementioned facts and circumstances, I do not find any merit in this writ petition and the same is accordingly dismissed.

8. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

13.08.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No