

2024:PHHC:091020-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

LPA-1613-2024 (O&M)

Decided on : 19.07.2024

Bhupinder Singh

.....Appellant(s)

Versus

Financial Commissioner, Punjab & others

.....Respondent(s)

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

Present: Mr.Harmandeep Singh Saini, Advocate, for the appellant(s).

Mr.Sherry K.Singla, Advocate, for caveator-respondent No.4.

G.S. Sandhawalia, J.(Oral)

CM-3799-LPA-2024

1. Application for condoning the delay of 49 days in filing the present appeal is allowed in view of the averments made in the application duly supported by affidavit of the appellant. Delay of 49 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

CM-3801-LPA-2024

3. Exemption application is allowed, as prayed for.

4. CM stands disposed of.

LPA-1613-2024 (O&M)

5. Consideration in the present appeal is to the judgment passed by the Learned Single Judge dated 24.04.2024 passed in CWP-14289-2018 filed by the writ petitioner/appellant which was dismissed. Resultantly, the Learned Single Judge upheld the orders passed by the Divisional Commissioner dated 14.09.2011 (Annexure P-2) and that of the Financial Commissioner dated 26.02.2018 (Annexure P-3) whereby approval was given to the appointment of respondent No.4-Manjit Singh as Lambardar of Village Gurditpur, Tehsil Rajpura, District Patiala.

6. The Divisional Commissioner had set aside the order of the Collector dated 10.02.2010 (Annexure P-1) on account of the fact that an FIR was lodged against the present appellant and he was dismissed from service of the Co-operative Society due to embezzlement of the funds of the society and there was nothing adverse on record against the candidature of the private-respondents and he was more meritorious in comparison to Bhupinder Singh inter se and accordingly, appointed the private-respondent, Manjit Singh as Lambardar. The appellant had taken the matter to the Financial Commissioner who also noticed that there was an order of dismissal from service of the Co-operative Society and therefore, dismissed the appeal. Resultantly, reliance was placed upon the judgments of this Court in **Gurdev Singh Vs. Financial Commissioner (Appeals-II), Punjab & others, 2009 (1) LAR 214** and **Kabal Singh Vs. Financial Commissioner, Punjab 2006 (3) PLR 213** and the fact that the Lambardar is required to deal with people at large and the present appellant was involved in a criminal case, it was observed that it was the bounden duty of the Collector to apply his judicious mind while making appointment and that the Commissioner had not committed any error while accepting the appeal of respondent No.4-Manjit Singh.

7. The Learned Single Judge approved the said view while also noting the fact that the private-respondent No.4 was younger in age being 12th Pass and more qualified than the appellant and the fact that the appellant was dismissed from service of the Co-operative Society for embezzlement of funds. Thus it was held that the order of the Collector suffered from perversity and the said order rightly having been interfered with by the Divisional Commissioner led the Learned Single Judge to uphold the orders of the Commissioner and the Financial Commissioner.

8. It has been submitted by counsel for the appellant that the private-respondent had also been summoned in a complaint on account of wrongly identifying a person who was missing and therefore, his conduct is not clean and he placed reliance upon the complaint filed under Sections 418, 419, 420, 467, 468, 471, 472 IPC read with Section 120-B IPC read with Section 156(3) Cr.P.C. to submit that there was a complaint made titled *Gurcharan Singh Vs. Sukhwinder Kaur & others* and vide order dated 04.01.2021, the private-

respondent No.4 was issued summons under the above-said provisions to face trial.

9. The fact remains that the complaint is yet to be looked into and charge has not been framed. Even otherwise, the date of consideration of the antecedents is when the applications are invited and the material which is to be kept in mind by the authorities at that point of time. The Collector was applying his mind at that point of time inter se the two candidates which was to be kept in mind and the incident which had happened at the subsequent point of time with respondent No.4 is not to be looked into by us. The allegations made against the appellant were substantial and offence was being made out as he had faulted in the performance of his duties and he had also been dismissed from service. Thus, the summoning of the private-respondents at the subsequent point of time would not be a ground to interfere in the findings of the Commissioner which was upheld by the Financial Commissioner and rightly not interfered with by the Learned Single Judge.

10. Resultantly, in view of the above discussion, finding no merit in the present appeal, the same is hereby dismissed. All pending application(s) also stand dismissed.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

19.07.2024
Sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No