



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.1736 of 2024 (O&M)
Date of Decision: 01.08.2024

Dilbagh Singh
...Appellant

Versus

State of Punjab and others
...Respondents

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

Present:- Mr. Ankit Bishnoi, Advocate
 for the appellant.

G.S. Sandhawalia, J.(Oral)

CM No.4110-LPA of 2024

Application for condoning the delay of 55 days in filing the appeal is allowed in view of the averments made in the application, duly supported by affidavit of the appellant-Dilbagh Singh. Delay of 55 days in filing the appeal is hereby condoned.

CM stands disposed of.

LPA No.1736 of 2024 (O&M)

Consideration in the present Letters Patent Appeal is to the order dated 26.04.2024 of the learned Single Judge passed in CWP No.9574 of 2024 titled **‘Dilbagh Singh versus The Financial Commissioner (Appeals), Punjab, Chandigarh and others’**, whereby the writ petition has been dismissed and resultantly, the appointment of

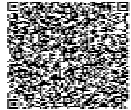


respondent No.4-Malkit Singh as Lambardar of Village Bassarke, Tehsil Patti, District Tarn Taran, has been upheld, which had been done by the Collector vide the order dated 31.08.2016 (Annexure P-1) and upheld also by the Financial Commissioner vide order dated 01.03.2021 (Annexure P-4) and not interfered in the order passed on 26.04.2024 passed by learned Single Judge.

2. The counsel has tried to convince us that the orders passed by the Financial Commissioner and learned Single Judge, are not justified. The Commissioner had remanded the matter for fresh decision vide the order dated 20.02.2018 (Annexure P-3) and to examine the clarification regarding the place of resident of the appellant and the mental state of the respondent. It is also submitted that the interference by the Financial Commissioner was not justified.

3. We have gone through the paper-book and a perusal of the order of the Collector would go on to show that both the candidates are very closely placed, the present appellant being 39 years and the private respondent being 37 years. The private respondent had stolen a march being passed 10+2 whereas the present appellant has only 10th class qualification. Similarly, regarding the ownership of the land also, he had 94 kanal 07 marlas versus 48 kanals owned by the present appellant. In such circumstances, the Collector has appointed the private respondent.

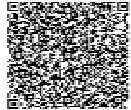
4. It is settled principle that the younger candidate is to be preferred as per **Mahavir Singh vs. Khiali Ram & Ors. 2009(1) RCR (Civil) 757** and even otherwise, as noticed in the writ petition, the



qualification being higher and the land holdings being double, the Collector was well-justified in directing the appointment. The Commissioner in the absence of any perversity and on a sole argument raised that the mental health was not good, directed re-consideration vide the order, which is not permissible. The order passed by the Commissioner interfering cannot be said to be reasoned in any manner as no medical evidence was placed on record to show that the mental state of the said person could be doubted. The relevant portion whereby the findings were reversed by the Commissioner, reads as under:-

“5. I have considered the arguments advance by the ld. Counsel for the parties and have gone through the record in the case and papers brought on the file. I find that the appeal deserve to be accepted and the case needs to be remanded to the Collector, Tarn Taran for fresh decision. The merits of both the candidates are almost similar. Only two require clarification i.e. the place of residence of the appellant and mental state of the respondent. Therefore, the appeal accepted and the case is remanded to the Collector, Tarn Taran for deciding it afresh in the light of the observation made above. The parties are directed to appear before the District Collector Tarn Taran on 16/04/2018.”

5. The Financial Commissioner, thus, keeping in view the written arguments on the record as such, rightly accepted the appeal and set-aside the order of the Commissioner in favour of the private respondent. The review-petition filed on the ground that the counsel’s presence had



wrongly been marked, was also kept in mind while dismissing it vide the order dated 17.07.2023, keeping in mind that written arguments had been filed and the same have been taken into consideration while passing the order.

6. Learned Single Judge has also noticed the fact that there was no evidence regarding the mental incapacities as such. The application now filed under Order 41 Rule 27 read with Section 151 CPC on the basis of some signatures of the residents that he takes medicines from the Mental Hospital for the last 03 years, does not cut much ice. The absence of any categorical medical record as such to be produced from where a person was getting treatment for recording a opinion that he is unfit to hold the post, roving inquiry cannot be directed as contended.

7. In such circumstances, we are of the considered opinion that keeping in view the settled principle of law that the Collector is the best person to judge who is to hold the post of Lambardar, i.e the headman of the village and having analysed the comparative merits of all the candidates, the order passed by the Commissioner was not justified and the same has rightly been set-aside. Accordingly, we do not find any merit in the present appeal and the same is dismissed accordingly.

(G.S. SANDHAWALIA)
JUDGE

01.08.2024
neetu

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*