

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22912-2018 (O/M)

Date of decision : 25.07.2024

Balwant Singh

..... Petitioner

Versus

Financial Commissioner, Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG Punjab.

Mr. Shamsher Singh Gill, Advocate
for respondent No. 4.

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HARSH BUNGER, J.

1. Petitioner (Balwant Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, seeking setting aside of order dated 24.05.2018 (Annexure P-3), passed by learned Financial Commissioner (Appeals), Punjab (respondent No. 1), upholding/restoring the order dated 20.05.2014 (Annexure P-1), passed by learned District Collector, Ludhiana (respondent No. 3).

2. Briefly, the previous Lambardar of village Ghungrali Rajputan, Tehsil Khanna, District Ludhiana, namely, Shri Gurdial Singh expired and proceedings were initiated for filling up the said vacancy. In pursuance to the proclamation, two applications (one submitted by petitioner and other submitted by respondent No. 4) were received, whereupon the Naib Tehsildar, Khanna, recommended the name of respondent No. 4 (Paramjit Kaur) for appointment as Lambardar (SC) and even the learned Sub

Divisional Magistrate, Khanna, also recommended respondent No. 4 for the said appointment, however, the learned District Collector, Ludhiana, remanded the matter back to learned Sub Divisional Magistrate, Khanna, and thereafter, the learned Sub Divisional Magistrate, Khanna, recommended the candidature of present petitioner (Balwant Singh) for appointment to the aforesaid vacancy.

2.1 The learned District Collector, Ludhiana, vide its order dated 20.05.2014 (Annexure P-1), appointed respondent No. 4 (Paramjit Kaur) as Lambardar (SC) of village Ghungrali Rajputan.

2.2 Being aggrieved against the aforesaid order dated 20.05.2014 (Annexure P-1), the present petitioner preferred an appeal before the learned Commissioner, Patiala Division, Patiala, which came to be allowed, vide order dated 14.07.2015 (Annexure P-2), whereby the matter was remanded to the learned District Collector, Ludhiana, by observing as under :-

“4. I have heard both the counsels and have also gone through the order of the District Collector, Ludhiana. In this case, the appellant is more educated being 8th class pass, is a mature person of 58 years and SDM has recommended his candidature for this post. The Collector has ignored his candidature on the ground that he was involved in so many criminal cases whereas the appellant is pleading that a false case was registered against him in the year 1979 but he was acquitted by the Hon'ble Punjab and Haryana High Court and as such the same cannot be considered as his demerit. Keeping in view the above, I am of the opinion that this case needs fresh consideration. Thus the appeal filed in this case is hereby accepted and the case

is remanded back to District Collector, Ludhiana for passing fresh orders after considering merits and demerits of both the candidates.”

3. The aforesaid order dated 14.07.2015 (Annexure P-2), passed by the learned Commissioner, Patiala Division, Patiala, was challenged by respondent No. 4 by way of an appeal (ROA-02-2016) before the learned Financial Commissioner (Appeals), Punjab, which came to be allowed, vide order dated 24.05.2018 (Annexure P-3), whereby the order passed by the learned Collector, Ludhiana, was restored and following observations were made :-

“7. Further, there is cantina of judgments in which it has been held that choice of the Collector should not be disturbed in an ordinary manner. The DB of Hon'ble Punjab and Haryana High Court in Satpal's case reported as 2007 (4) RCR (Civil) 405 has held that it is established law that, choice of the Collector, in the case of appointment of Lambardar, is not to be interfered with, unless it is perverse in law and facts. In the instant case, the Commissioner, Patiala Division, Patiala erred in remanding the case to the District Collector on the basis of acquittal of the respondent by ignoring all other facts such as the appellant being younger in age.

8. Accordingly, in view of the discussion above, the appeal is accepted. The order of the Commissioner, Patiala Division, Patiala dated 14.07.2015 is set aside. The order of the District Collector, Ludhiana 20.05.2014 is upheld.”

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

5. Learned counsel for petitioner submits that the learned District Collector, Ludhiana as well as the revisional authority below erred in appointing respondent No. 4 as Lambardar (SC). It is submitted that the learned Financial Commissioner, Punjab, has wrongly non-suited the petitioner only on the ground that he was involved in a criminal case, whereas the petitioner already stands acquitted. It is further submitted that the petitioner is more meritorious than respondent No. 4 as his name was recommended by the Sub Divisional Magistrate, Khanna and he is more educated than respondent No. 4. Accordingly, prayer has been made for setting aside the impugned orders and a further prayer is made that the petitioner be appointed as Lambardar (SC) of village Ghungrali Rajputan, Tehsil Khanna, District Ludhiana.

6. Per contra, learned counsel appearing for respondent No. 4 has opposed the submissions made on behalf of the petitioner. It is submitted that the learned District Collector, Ludhiana, had considered the relevant factors and appointed respondent No. 4 as Lambardar (SC). It is further submitted that respondent No. 4 is more meritorious than the petitioner inasmuch as her name was recommended by Naib Tehsildar, Khanna and she is younger in age than the petitioner. It is next submitted that the petitioner was involved in a criminal case although, he was acquitted, but respondent No. 4 has clean antecedents and she has been rightly appointed by the learned Collector and the said choice has been further affirmed by the learned Financial Commissioner (Appeals), Punjab. It is submitted that as per well settled law, the choice of the learned Collector is to be respected and the same is not lightly interfered with unless there is patent illegality or perversity. It is submitted that there is no scope for any interference in the

impugned orders. Accordingly, prayer has been made for dismissal of the instant civil writ petition.

7. I have heard learned counsel for the parties and have also perused the paper book with their able assistance.

8. The merits and demerits of the candidates can be summarized in the following tabular chart :-

Sr. No.	Particulars	Petitioner (Balwant Singh)	Respondent No. 4 (Paramjit Kaur)
1.	Age (As per learned Collector's order dated 20.05.2014)	58 years	43 years
2.	Educational Qualification	8 th	6 th
3.	Recommended by	S.D.M. Ludhiana	Naib Tehsildar, Khanna. Tehsildar, Khanna.
4.	Antecedents	Involved in one criminal case-acquitted	Clean

8.1 A bare perusal of the above comparison would show that respondent No. 4 is younger in age than the petitioner and has clean antecedents. Moreover, her name was recommended by Naib Tehsildar, Khanna and Tehsildar, Khanna.

8.2 Hon'ble the Supreme Court in the case of ***Mahavir Singh Versus Khiali Ram and Others***, 2009(1) RCR (Civil) 757, held that in the matter of appointment of Lambardar, the age is a relevant factor.

8.3 Furthermore, it is well established that the choice of the Collector is not to be lightly interfered with even if two views are possible unless there is any patent illegality or perversity. In this regard, reference can be made to judgment rendered by a Division Bench of this Court in the

case of ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab***, 2016(1) RCR (Civil) 273.

8.4 As regards the contention of learned counsel for petitioner that the petitioner has been wrongly non-suited on the ground of his involvement in a criminal case, it is observed that although the petitioner stands acquitted from the criminal case, however, if a person with clean antecedents is available, it would be appropriate to appoint such person.

9. Considering the totality of circumstances, there is no scope for any interference in the impugned orders by this Court in exercise of writ jurisdiction. Resultantly, the instant civil writ petition fails and the same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

25.07.2024
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No