

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:098465-DB



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LPA No. 1737 of 2024 (O&M)
Date of Decision: 1st August, 2024

Pratap Singh

..Appellant

Versus

State of Haryana and others

..Respondents

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

Present: Mr. Sandeep Chopra, Advocate for appellant.

Mr. Ankur Mittal, Addl. Advocate General, Haryana with
Mr. Saurabh Mago, Deputy Advocate General, Haryana.

G.S. SANDHAWALIA, J (Oral)

CM No. 4112-LPA of 2024

For the reasons mentioned in the application, delay of 41 days
in filing the appeal is condoned. Application stands disposed of.

LPA No. 1737 of 2024

1. The present appeal has been filed by the appellant against the
order dated 15.5.2024 passed by the learned Single Judge in Civil Writ
Petition No. 5726 of 2024 dismissing the same and upholding the order
passed by the Collector as well as the Divisional Commissioner, Rohtak
whereby private respondent No.5 was appointed as Lambardar of village
Jaitpur Tehsil & District Jhajjar. The findings recorded as such by the
learned Single Judge read as under:-

*“5. On hearing learned counsel for the petitioner and perusing
the record, it is apparent that the petitioner was 60 years of age
whereas respondent No.5 was 32 years of age. Though the
petitioner was more qualified than respondent No.5, however*

there is no minimum qualification prescribed for the appointment of lambardar. Even otherwise respondent No.5 was BA-II by qualification. This is an admitted fact that the petitioner is much more elder in age than respondent No.5. As per the law settled, the candidate younger in age deserves to be preferred. As per the law settled, appointment of the lambardar is primarily the prerogative of the Collector, who not only appreciate their inter se merits but interacts with them. In the over all comparison of inter se merits, the learned Collector found respondent No.5 to be more meritorious and thus appointed him as lambardar of the village. The order was upheld by the Appellate Court as well as the appeal filed by the petitioner was dismissed.

6. *Although the learned Financial Commissioner disposed of the revision petition filed by the petitioner on the ground that in view of the notification dated 10.04.2017, he has no jurisdiction to hear the same. Yet the finding arrived at by him cannot be said to be against any of the parties. The main surviving grievance of the petitioner is with regard to the orders passed by the Collector as well as by the Appellate Authority. The order passed by the Collector appointing respondent No.5 as lambardar of the village cannot be termed as perverse as respondent No.5 was younger in age and as such he was found to be more suitable for the post of lambardar in comparison to the petitioner. The findings of the Collector has been affirmed by the Appellate Court while dismissing the appeal filed by the petitioner against the order of Collector. Thus, finding of the Collector as well as of the Appellate Authority cannot be termed as illegal or perverse and the same are affirmed.”*

2. Learned counsel for the appellant has vehemently submitted that being an ex-serviceman the priority should have been given as such to appoint the present appellant as Lambardar as he had served the nation and this aspect was not considered by the authorities while appointing the private respondent No.5 as Lambardar.

3. We have perused the order of the Collector dated 13.11.2018 (Annexure P-2). Apparently, what weighed as such after analyzing the merits and de-merits of both the candidates was the fact that an FIR No.

180 under Section 148, 149, 323, 341, 326, 506 of the Indian Penal Code had been registered against the present appellant though he had been acquitted in the same.

4. Accordingly, it was noticed that the private respondent - Jai Bhagwan, who was aged 32 years and passed BA-II was having 5 acres of agricultural land and, therefore, he was a more able candidate and the other candidate i.e. the appellant being ex-serviceman was 60 years of age and BA pass and had 9 kanals 2 marlas of land.

5. Thus in such circumstance, the Collector, who is the best person to judge the suitability of the candidates, preferred to appoint the private respondent as Lambardar and he ignored the appellant even though he might have been an ex-serviceman. It is settled principle of law that though a person might have been acquitted but he is supposed to have clean antecedents as has been observed time and again and there should be no taint. In such circumstances, the impugned order had been upheld by the Commissioner and even the Financial Commissioner had not chosen to interfere on the ground of maintainability as such.

6. In view of above, we are of the considered opinion that as per settled law, also in ***Mahavir Singh Versus Khiali Ram and others 2009(3) SCC 439***, the younger candidate also should have been given preference. In such circumstance, we do not find any infirmity in the order passed by learned Single Judge. Accordingly, the appeal is dismissed.

(G.S. SANDHAWALIA)
JUDGE

1st August, 2024

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No