



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.2121 of 2024 (O&M)
Date of Decision: 06.09.2024

Gurdevjit Singh
...Appellant
Versus
Financial Commissioner, Punjab & others
...Respondents

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

Present:- Mr. P.S. Khurana, Advocate,
for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Naveen Batra, Advocate,
for respondent No.4-Caveator.

* * * *

G.S. SANDHAWALIA J. (Oral)

Challenge in the present Letters Patent Appeal is to the judgment dated 02.08.2024 in **CWP No.18337 of 2024** passed by learned Single Judge, who chose to interfere with the order of respondent No.1-Financial Commissioner, Punjab dated 21.03.2024 (Annexure P-3) and had allowed the writ petition while setting-aside the impugned order of respondent No.1-Financial Commissioner, Punjab. The appellant was arrayed as respondent No.4 in the said writ petition.

2. Counsel for the appellant submits that respondent No.1-Financial Commissioner, Punjab, had rightly remanded the matter back to



respondent No.2-Commissioner, Patiala, and therefore, learned Single Judge should not have interfered in the said decision when the authority was completely seized of the process as directed by respondent No.1-Financial Commissioner, Punjab. He further submits that it was not a case of remand but it was the revision petition (ROR No.706 of 2022) which had been accepted and the order dated 29.09.2021 (Annexure P-1) passed by respondent No.3-District Collector, Patiala and also the order dated 05.07.2022 (Annexure P-2) passed by respondent No. 2-Commissioner, Patiala, in favour of the appointed candidate namely Hardeep Singh had been set-aside. Respondent No.1-Financial Commissioner also set-aside the order of respondent No.3-District Collector dated 29.09.2021 (Annexure P-1). On the other hand, he further pointed out that the case was wrongly remanded to respondent No.2-Commissioner, Patiala, since it is basic law that it is the District Collector who is to appoint the *Lambardar* and remanding the matter back to the Commissioner was wholly unjustified.

3. Learned Single Judge while allowing the writ petition reproduced the comparative merit as such *inter se* the two candidates and relied upon the decision of the Supreme Court in ***Mahavir Singh vs. Khiali Ram and Others, 2009 (1) RCR (Civil) 757*** to hold that as noticed in the writ petition, as far as the appointment of a *Lambardar* in the State of Punjab is concerned, the age of a candidate is the relevant factor. It is not in dispute that the private respondent-Hardeep Singh is younger, being 45 years of age whereas the present appellant is 52 years. Similarly, it was also noticed that in the case of ***Gurpreet Singh versus Financial***



Commissioner (Revenue), Punjab, 2017(1) RCR (Civil) 233, this Court has observed that the land revenue stood abolished in both the States of Punjab and Haryana, therefore, merely because the land holding of the present appellant is more, it would not be of any significance as far as the purpose of security of revenue as such was concerned.

4. Thus, the learned Single Judge reiterated the basic principle that it is the Collector who is the main authority for the appointment of the *Lambardar*, while relying upon the decision of a Division Bench of this Court in **Kuldip Singh vs. Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273** and further noted that in the order dated 29.09.2021 (Annexure P-1) respondent No.3-District Collector, Patiala had gone through all the records and in his findings had highlighted the better merits of private respondent Hardeep Singh and had, thus, duly appointed him as *Lamabardar*. Therefore, learned Single Judge held that respondent No.1-Financial Commissioner, Punjab, had not applied his mind to the afore-mentioned facts while remanding the matter to respondent No.2-Commissioner, Patiala and therefore, learned Single Judge upheld the order dated 29.09.2021 (Annexure P-1) passed by respondent No.3-District Collector, Patiala, appointing the private respondent Hardeep Singh as *Lambardar* of Village Ranbirpura and had allowed the writ petition.

5. We are of the considered opinion, that there is no substance in the arguments raised by learned counsel for the appellant, because as such the principle in revision is that interference is warranted only if there is an error apparent on the face of the record and as observed by learned Single



Judge there was none. The argument that reply was not called for is without any basis as the appellant had put in his appearance and was present when the order was being passed on the basis of the admitted facts and hence, there was no requirement to seek any reply.

6. In such circumstances, keeping in view the settled principle that the Collector is the best person to judge the antecedents of the candidates in fray and the order under revision was only to be interfered if there was any perversity in the order, thus the order of the learned Single Judge allowing the writ petition is well-justified. The antecedents of both the candidates as such were taken into consideration while passing the order while enhancing the relative merits of the private respondent-Hardeep Singh and both of them have very little difference in merit between them.

7. It is apparent that the reason the private respondent was appointed was not only because he was apparently younger in age but was also better qualified, having passed 12th class in comparison to the present appellant who has only passed 10th class. In such circumstances, respondent No.3-District Collector, Patiala, had rightly appointed the private respondent and it is also noticed that apparently, his antecedents were good since nothing has been brought to the notice of this Court to show that any criminal proceedings are pending against the private respondent or that he has unauthorisedly occupied any land as such.

8. Resultantly, respondent No.1-Financial Commissioner, Punjab, was not justified in remanding the matter to respondent No. 2-



Commissioner, Patiala to pass a fresh decision, since even the Division Bench in *Kuldip Singh (supra)* had noticed that interference is only to be done where there is any patent illegality or perversity therein i.e., merit has been given a go-by or secondly if there is an operative error. In the absence of the same, the order of respondent No.1-Financial Commissioner, Punjab, was not justified, the error which has been rightly corrected by learned Single Judge. It is also to be noticed that initially there were four people in contest and one Davinder Singh had withdrawn his application in favour of the private respondent and one Ravinder Singh, who was also an applicant, was not a resident of the village. Thus, it is apparent that the due consideration was done of all four candidates on the basis of which the appointment was made and hence, the order dated 21.03.2024 (Annexure P-3) passed by respondent No.1-Financial Commissioner suffered from illegalities and irregularities as such. Resultantly, we do not find any merit in the present appeal and the same is dismissed accordingly.

9. All the pending application(s), if any, stand disposed of accordingly.

(G.S. SANDHAWALIA)
JUDGE

September 06, 2024
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No