

**CWP-22923-2024 along with
CWP-23820-2024**

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106+109 (2 cases)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-22923-2024
CWP-23820-2024
Date of Decision: 24.09.2024**

(I)

CWP-22923-2024

Sukhjinder Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others

..... Respondents

(II)

CWP-23820-2024

Gurnam Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

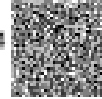
CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Kanwaljeet Singh, Advocate
for the petitioner
(in CWP-22923-2024).

Ms. Amandeep Soni, Advocate
for the petitioner
(in CWP-23820-2024).

Mr. Navneet Singh, Sr. DAG, Punjab.

Mr. Sherry K. Singla, Advocate
for respondent No.4 (in CWP-22923-2024)
for respondent No.5 (in CWP-23820-2024).



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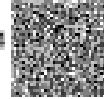
HARSH BUNGER, J. (Oral)

1. This order shall dispose of two writ petitions, bearing CWP-22923-2024 and CWP-23820-2024 and for the purpose of passing this order, the facts are being taken from **CWP-22923-2024**.

2. The present petition (CWP-22923-2024) has been filed under Articles 226/227 of the Constitution of India *inter alia* seeking a writ in the nature of Certiorari for setting aside order dated 29.04.2024 (Annexure P-10) passed by the learned Financial Commissioner, Punjab; order dated 26.11.2021 (Annexure P-9) passed by the learned Divisional Commissioner, Patiala and order dated 09.03.2021 (Annexure P-8) passed by the learned District Collector, Ludhiana.

3. Briefly, on demise of Sh. Mewa Singh, previous *lambardar* (Scheduled Caste) of Village Dakha, Tehsil and District Ludhiana, the proceedings for filling up the vacancy were initiated. In pursuance of the proclamation, eight applications including applications submitted by Sukhjinder Singh (petitioner in CWP-22923-2024), Gurnam Singh (petitioner in CWP-23820-2024) and Harjit Singh (who is respondent No.4 in CWP-22923-2024 and respondent No.5 in CWP-23820-2024) were received. Upon receipt of the applications, the antecedents of the candidates were got verified from the local police, which were found to be correct.

4. The Naib Tehsildar, Mullanpur Dakha as well as the Sub Divisional Magistrate, Ludhiana (West) recommended the name of Harjit Singh (respondent No.4 in CWP-22923-2024 and respondent No.5 in CWP-23820-2024) for appointment to the aforesaid vacancy and the matter was forwarded to the learned Collector, Ludhiana.



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5. Learned Collector, Ludhiana, vide order dated 09.03.2021 (Annexure P-8) appointed Harjit Singh (respondent No.4 in CWP-22923-2024 and respondent No.5 in CWP-23820-2024) as the *lambardar* (S.C.) of Village Dakha.

6. The aforesaid order dated 09.03.2021 (Annexure P-8) came to be challenged by way of two separate appeals by Gurnam Singh and Sukhjinder Singh (petitioners in CWP-23820-2024 and CWP-22923-2024 respectively) before the learned Commissioner, Patiala Division, Patiala.

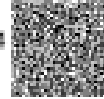
7. Learned Divisional Commissioner vide order dated 26.11.2021 (Annexure P-9), dismissed both the appeals and upheld the Collector's order dated 09.03.2021 (Annexure P-8).

8. Still aggrieved, the aforesaid Gurnam Singh (petitioner in CWP-23820-2024) as well as Sukhjinder Singh (petitioner in CWP-22923-2024) preferred their respective Revision Petitions before the learned Financial Commissioner (Appeals), Punjab, however, the said Revision Petitions were also dismissed vide a common order dated 29.04.2024 (Annexure P-10).

9. In the aforementioned circumstances, the said Sukhjinder Singh and Gurnam Singh (petitioners in CWP-22923-2024 and CWP-23820-2024 respectively) have filed their respective Writ Petitions before this Court.

10. Learned counsel for the petitioners in both the cases submit that the Revenue Authorities below have erred in law and fact in passing the impugned orders and thereby appointing Harjit Singh (respondent No.4 in CWP-22923-2024 and respondent No.5 in CWP-23820-2024) as the

lambardar despite the fact that Harjit Singh does not have clean antecedents



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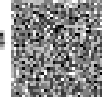
as he was convicted in a case FIR No.99, dated 11.06.2011. That apart, Harjit Singh was also involved in another case FIR No.189, dated 20.10.2011. It is submitted that once the persons with clean antecedents were available in the Village, there was no occasion for the Revenue Authorities below to have appointed Harjit Singh as the *lambardar*.

10.1 Learned counsel appearing for Sh. Gurnam Singh (petitioner in CWP-23820-2024) submits that Gurnam Singh is a mature man, who had served with the Government department (PUNSUP) and was sufficiently educated upto Matric, therefore, he should have been appointed as *lambardar* of the village.

10.2 On the other hand, learned counsel appearing for Sh. Sukhjinder Singh (petitioner in CWP-22923-2024) submits that Sukhjinder Singh is younger in age than Harjit Singh and is sufficiently educated up to 12th class and has further done a diploma in Tally Program. It is submitted that the father of Sukhjinder Singh was an ex-serviceman and had rendered services to the State, therefore, Sukhjinder Singh is more meritorious than Harjit Singh, accordingly, he should be appointed as the *lambardar*.

11. Per contra, learned counsel appearing for Harjit Singh (respondent No.4 in CWP-22923-2024 and respondent No.5 in CWP-23820-2024) has opposed the submissions made on behalf of the petitioners by submitting that Harjit Singh is a young man of about 40 years of age, who is a graduate and both the Revenue Officers had recommended his name for the appointment as *lambardar*. It is submitted that the learned Collector after considering the relative merits and de-merits of all the candidates and finding Harjit Singh as more suitable candidate, appointed him as *lambardar*

(S.C.). It is contended that as per well settled law, the choice of learned



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Collector in the matter of appointment of *lambardar* is not to be interfered with unless there is any patent, illegality or perversity therein. It is submitted that the only allegation levelled against Harjit Singh is that he was convicted in a case FIR No.99, dated 11.06.2011 and was further involved in another case FIR No.189, dated 20.10.2011. It is stated that as regards FIR No.189 is concerned, Harjit Singh was acquitted vide judgment dated 13.07.2016 (Annexure P-7). As regards the another FIR No.99, dated 11.06.2011, it is submitted that although Harjit Singh was convicted under Sections 325, 323 and 341 read with Section 34 of the Indian Penal Code, however, on an appeal, a compromise was arrived at between the parties and he was acquitted vide judgment dated 09.11.2017 passed by the Additional Sessions Judge, Ludhiana. A copy of judgment dated 09.11.2017 has been handed over in Court today, which may be kept on record. It is further submitted that the Collector's order appointing Harjit Singh as *lambardar* has been further upheld by the learned Divisional Commissioner as well as the learned Financial Commissioner, therefore no interference is required to be made in the said orders. Accordingly, prayer has been made for dismissal of the Writ Petition(s).

12. I have heard learned counsel for the parties and perused the paper-book(s) with their able assistance.

13. Concededly, Harjit Singh was appointed as *lambardar* (S.C.) of Village Dakha vide order dated 09.03.2021 (Annexure P-8). The said order has been further upheld by the learned Divisional Commissioner as well as the learned Financial Commissioner. As regards the allegation that Harjit Singh is involved in two case FIR's, it is noticed that in case FIR No.189,

dated 20.10.2011, Harjit Singh stands acquitted vide judgment dated

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13.07.2016 (Annexure P-7) and in case FIR No.99, dated 11.06.2011, Harjit Singh was acquitted vide judgment dated 09.11.2017, passed by the Additional Sessions Judge, Ludhiana as the matter was compounded before the Appellate Court.

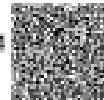
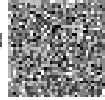
13.1 The fact of involvement of Harjit Singh (respondent No.4 in CWP-22923-2024 and respondent No.5 in CWP-23820-2024) in criminal cases has been duly considered by the Financial Commissioner, however considering the acquittal of Harjit Singh in both cases, his opinion was not influenced. All the three subordinate authorities have taken consistent view and the order passed by the Collector has been found to be not suffering from any perversity. In ***Hakam Singh v. Financial Commissioner (Revenue), Punjab and others, 2016(4) RCR (Civil) 335***; this Court observed as under:-

“3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.”

13.2 In ***Sukhjinder Pal Singh v. State of Punjab and others, 2016(3) RCR (Civil) 725***, this Court has held as under:-

“14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.”

13.3 In ***Kuldip Singh vs. Financial Commissioner Appeals-II,***



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Punjab, 2016 (1) RCR (Civil) 273; it was held by the Division Bench of this Court that choice of Collector cannot be lightly set aside, even if two views are possible.

14. Considering the totality of circumstances in the light of settled law; I do not find any merit in the instant Writ Petitions and the same are accordingly dismissed.

15. All pending applications (if any) shall also stand closed.

16. Photocopy of this order be placed on the file of connected case.

24.09.2024

Himani

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No