



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

**LPA No.2221 of 2024 (O&M)
Date of Decision: 20.09.2024**

Harbhajan Singh
.....Appellant.
Versus
Financial Commissioner Revenue (Appeals), Punjab and others
.....Respondents.

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

Present:- Mr. Ishnoor Singh, Advocate for
 Mr. Vikram Singh, Advocate
 for the appellant.

 Ms. Arundhati Kulshreshtha, AAG, Punjab
 for respondents No.1 to 3.

 Mr. N.P.S. Mann, Advocate and
 Mr. Mohit Kumar, Advocate
 for respondent No.4.

G.S. SANDHAWALIA, J.(Oral)

The present Letter Patent Appeal is directed against the judgment passed by learned Single Judge on 09.07.2024 in **CWP No.14401 of 2024**, whereby the writ petition filed by the appellant was dismissed while upholding the order dated 08.09.2017 (Annexure P-3) passed by the Commissioner, Rupnagar Division, Rupnagar and the order dated 18.01.2024 (Annexure P-7) passed by the Financial Commissioner (Appeals), Punjab.



2. Learned Financial Commissioner, while deciding the case afresh in view of the directions issued by learned Single Judge on 27.01.2023 (Annexure P-6) in view of the direction given in the writ petitions bearing **CWP No.17713 of 2020** and **CWP No.20317 of 2020** filed by the appellant and private respondent respectively, had decided the appeal on merits bearing **ROA No.70 of 2017** vide order dated 18.01.2024 (Annexure P-7).

3. The Financial Commissioner came to the conclusion that the reasoning given by the Commissioner in the order dated 08.09.2017 in appointing the private respondent-Mangal Singh was correct since there were allegations against the present appellant that he had encroached over the *Shamlat* land and mis-appropriated the government grant of *Shamshan Ghat* and the deposit of Rs.7,664/- by the appellant was, apparently, proved as per the report of District Development and Panchayat Officer, Rupnagar.

3. Learned counsel for the appellant has submitted that the said deposit was made on his own violation whereas, it has been pointed out that as per the report, during the inquiry proceedings, the deposit was made to make good the short-fall. In such circumstances, the finding had been recorded that the reasoning given by the Commissioner to appoint the private respondent as Lambardar was justified. Vide order dated 08.09.2017 (Annexure P-3), the Commissioner also held that the allegation is very serious and to elect such a person as Numberdar is not good for betterment of the village, i.e Bhallan Tarf Majar.

4. Learned counsel for the appellant has tried to argue on the aspect that the matter is pending before the Larger Bench that whether the



appellate authority or the revisional authority can order for appointment of Lambardar of the village itself, while setting aside the appointment as such or the matter should be referred to the Collector, vide order dated 05.11.2019 passed by learned Single Judge in ***CWP No.25445 of 2019*** titled as ***Gurdeep Singh Versus Financial Commissioner, Haryana and others.***

5. We are of the considered opinion that this issue would not arise in the present facts and circumstances once there was a consent order *inter-se* the parties in the writ petitions bearing ***CWP No.17713 of 2020*** and ***CWP No.20317 of 2020***, wherein directions had been issued, on their asking on 27.01.2023, that the Financial Commissioner should decide the issue on merits. The reference was made by learned Single Judge for at that point of time on 05.11.2019. In spite of that, the appellant and private respondent No.4 had consented and chosen to go back to the Financial Commissioner for decision on merits. Apparently, on an earlier occasion, vide order dated 14.01.2020 (Annexure P-5), the Financial Commissioner had set-aside the order dated 08.09.2017 passed by the Commissioner and the case was remanded to the Collector to decide the same afresh. Having raised a challenge successfully to the same, the appellant is estopped from pursuing the matter by his own act and conduct.

6. Vide the impugned judgment, learned Single Judge, while upholding the appointment of the private respondent, has also observed that the private respondent is younger in age than the appellant and therefore, reference had been placed upon the judgment of the Apex Court in ***Mahavir Singh v. Khialia Ram and others, 2009(1) RCR(Civil) 757***



regarding this aspect. It has also been noticed that the grandfather of the private respondent was a Freedom Fighter, who was granted *Tamar Patar* by the Government of India for participation in the freedom movement. Rule 15(f) of the Punjab Land Revenue Rules talks about the services rendered by the person or by his family in the national movement to secure freedom of India.

7. In such circumstances, finding a perversity in the order passed by the Collector on 26.11.2012 (Annexure P-2), the Commissioner had rightly interfered and appointed the private respondent as Lambardar vide order dated 18.09.2017 (Annexure P-3), keeping in view the comparative analysis of the candidates at that point of time, which has been further upheld.

8. Therefore, we are of the considered opinion that there is no plausible reason to interfere with the concurrent findings recorded by the Commissioner and the Financial Commissioner and upheld by learned Single Judge, vide the impugned judgment dated 09.07.2024.

9. The present Letter Patent Appeal is, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

September 20, 2024
Yag Dutt

Whether speaking/reasoned: Yes
Whether Reportable: No