



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.2349 of 2024 (O&M)
Date of Decision: 25.09.2024

Harjit Singh
...Appellant

Versus

Financial Commissioner (Appeals), Punjab
and others
...Respondents

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

Present:- Mr. Dilpreet Singh Gandhi, Advocate
 for the appellant.

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

 Mr. Sherry K. Singla, Advocate
 for respondent No.4-Caveator.

G.S. Sandhawalia, J.(Oral)

CM No.5681-LPA of 2024

Application under Section 5 of the Limitation Act for seeking condonation of the delay of 14 days in filing the accompanying appeal, is allowed, in view of the averments made in the application, duly supported by the affidavit of the appellant. Delay of 14 days in filing the appeal is, hereby, condoned.

CM stands disposed of.

LPA No.2349 of 2024 (O&M)

The challenge in the present Letters Patent Appeal is to the order dated 08.08.2024 passed in *CWP No.4156 of 2023*, whereby the



learned Single Judge has allowed the writ petition filed by respondent No.4-Dharminder Singh and set-aside the order passed by the Financial Commissioner who had remanded the matter to the Collector for fresh decision. The Financial Commissioner had taken the step as such on account of the fact that it had come in his opinion that the Collector had ignored the candidature of the present appellant Harjit Singh on merits on account of the fact that he had failed to tell anything to the Collector as to what his role would be on appointment. The Financial Commissioner was of the opinion that the Collector had not gone through the '*Naksha Lambardari*' prepared by the revenue officials and the order of the Tehsildar in which the merits of the present appellant had been mentioned and the fact that he had claimed that he was B.A. pass and the private respondent was 10th class pass and thus, came to the conclusion that the merits of the candidates as such had not been considered.

2. The learned Single Judge compared the merits as such inter-se between the present appellant and the private respondent and put it down in a tabular form and noticed that while the Collector had interacted with the candidates, the present appellant was found to be incapable of telling anything about himself and on that account, he was not considered to be a suitable candidate. The Divisional Commissioner had rejected the appeal filed by the appellant on 06.02.2020, by holding that the District Collector being the appointing authority is best judge in making appointment to the post of Lambardar and thus, the learned Single Judge came to the conclusion that there was no illegality or perversity in the order passed by the Collector, which the Financial Commissioner had also failed to record and therefore, the remand as such was not justified and even if two views are possible, the same exercise should not be done. Resultantly, he upheld



the order of the Collector.

3. Reference had also been made by the learned Single Judge from the tabulated form that Harjit Singh is an older candidate being 55 years of age whereas the private respondent is 48 years of age and in such circumstances, while relying upon the law laid down by the Apex Court in **Mahavir Singh Versus Khiali Ram and others, 2009(1) RCR (Civil) 757** that the younger candidate as such is to be given preference and also that the recommendations of the Collector are relevant as such, the learned Single Judge has allowed the writ petition. Merely because the present appellant owned more land as such, was not accepted as it was noticed that it was only for the purpose of security towards government revenue even if the private respondent had 06 acres land in comparison to 15 acres owned by the present appellant. It was also noticed that the land revenue stood abolished in both the States and resultantly, the order as such appointing the private respondent by the Collector was upheld.

4. We have also gone through the order of the District Collector, who had categorically noticed that the present appellant was present in the Court on two occasions and in the absence of the counsel, he was quizzed by the Collector. On both occasions, the District Collector found that he was incapable of telling anything about himself and the role he would have to play on his appointment and in such circumstances, it was found that he was not a suitable candidate for the post of Lambardar. It has been recorded that after hearing the candidates who were present and on perusal of all the documents available, the private respondent was appointed as he appeared to be more mature and healthy person. Apart from actively participating in the common works of the village, he was also bearing a good moral character. It was, rather, categorically recorded that amongst the four



candidates interacted with by the Collector, the present appellant was incapable of telling anything about himself. Thus, the interaction part, which is most important aspect to find out the capability as such, was totally lost sight of by the Financial Commissioner while interfering in the well-considered order of the Collector who, as per the settled principles, is the appointing authority and while interacting with the candidates and on account of the lack of response as such, was justified in rejecting the case of the present appellant.

5. The Commissioner in appeal also noticed this fact and chose not to interfere on 06.02.2020 and therefore, the finding of the learned Single Judge that the Financial Commissioner without any finding recorded regarding the perversity of the order, has chosen to interfere in the order of the appointing authority which in our considered opinion, is very justified in the peculiar facts and circumstances of the case.

6. Resultantly, we do not find any merit in the present appeal and the same is dismissed accordingly.

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

(G.S. SANDHAWALIA)
JUDGE

25.09.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No