



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(1)

CWP-25944-2022 (O&M)

LAKHVIR SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER (APPEALS), PUNJAB,  
CHANDIGARH AND OTHERS

...Respondents

(2)

CWP-28110-2022 (O&M)  
Date of decision : 31.07.2024

LAKHVIR SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER (APPEALS), PUNJAB,  
CHANDIGARH AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Rai Singh Chauhan, Advocate  
for the petitioner(s).

Mr. Navneet Singh, Senior D.A.G., Punjab.

Mr. Vishwajit Bedi, Advocate  
for respondent No.4 in **CWP-25944-2022**.

Mr. B.S. Khaira, Advocate  
for respondent No.4 in **CWP-28110-2022**.

**HARSH BUNGER, J. (ORAL)**

This order shall dispose of **CWP No.25944 of 2022** titled as

***Lakhvir Singh vs Financial Commissioner (Appeals), Punjab,***

*Chandigarh and others* as well as **CWP No.28110 of 2022** titled as *Lakhvir Singh vs Financial Commissioner (Appeals), Punjab, Chandigarh and others*, as both the cases involve common questions of law and facts.

However, for the sake of convenience, the facts are being derived from **CWP No.25944 of 2022** titled as *Lakhvir Singh vs Financial Commissioner (Appeals), Punjab, Chandigarh and others*.

2. Petitioner (Lakhvir Singh) has filed the afore-said two separate writ petitions, seeking setting aside of order dated 22.09.2022 (Annexure P-7) passed by the learned Financial Commissioner (Appeals) Punjab.

2.1 Briefly, the previous *Lambardar* (Shingara Singh) of Village Kapoorgarh, Tehsil Amloh, District Fatehgarh Sahib, expired; whereupon, the proceedings for filling up the afore-said vacancy were initiated. In pursuance to the proclamation for filling up the vacancy, six candidates (including petitioner-Lakhvir Singh, respondent No.4-Balvir Singh in **CWP No.25944 of 2022** and respondent No.4-Avtar Singh in **CWP No.28110 of 2022**) applied for the said post and their antecedents were got verified from the local police, which were found in order. Learned Tehsildar (Amloh) recommended the name of Avtar Singh for appointment as *Lambardar*; however, the Assistant Collector Ist Grade, Amloh, recommended the name of the petitioner-Lakhvir Singh, for appointment to the afore-said vacancy.

2.2 The learned Collector, Fatehgarh Sahib, considered the merits/de-merits of the candidates and vide its order dated 19.07.2021 (Annexure P-3) appointed the present petitioner-Lakhvir Singh as the *Lambardar* (General category) of Village Kapoorgarh.

2.3 The afore-said order dated 19.07.2021 (Annexure P-3) came to be challenged by way of filing two appeals i.e. one appeal filed by Balvir Singh (respondent No.4 in **CWP No.25944 of 2022**) and another by Avtar Singh (respondent No.4-in **CWP No.28110 of 2022**). Both the said appeals came to be dismissed by learned Commissioner, Patiala Division, Patiala vide its order dated 10.11.2021 (Annexure P-5) and the order passed by the learned Collector, was upheld.

2.4 Still aggrieved, Balvir Singh (respondent No.4 in **CWP No.25944 of 2022**) and Avtar Singh (respondent No.4-in **CWP No.28110 of 2022**) filed their separate revision petitions before the learned Financial Commissioner (Appeals), Punjab.

2.5 The learned Financial Commissioner (Appeals), Punjab, vide its order dated 22.09.2022 (Annexure P-7) set aside the order dated 19.07.2021 passed by the learned Collector as well as the order dated 10.11.2021 passed by the learned Commissioner and remanded the case back to the learned Collector, Fatehgarh Sahib, to appoint more meritorious and suitable candidate after considering their *inter-se* merits.

2.6 In the afore-mentioned circumstances, the petitioner has filed the present two writ petitions before this Court.

3. It is required to be noticed here that Avtar Singh (respondent No.4 in **CWP No.28110 of 2022**) is stated to have expired.

4. Learned counsel for the petitioner submits that the learned Financial Commissioner has erred in law and fact in passing the impugned order dated 22.09.2022 (Annexure P-7) and setting aside the well reasoned order dated 19.07.2021 passed by the learned Collector as well as the order dated 10.11.2021 passed by the learned Commissioner. It is contended that

the learned Financial Commissioner, has failed to appreciate the settled law that choice of Collector is to be respected, even if, two views are possible. It is submitted that the order passed by the learned Collector was also upheld by the learned Commissioner; therefore, the learned Financial Commissioner, should have been circumspect in setting aside the choice of the Collector. It is further submitted that the petitioner is younger in age and also more educated than respondent No.4-Balvir Singh. It is further submitted that the petitioner owns sufficient land (8 kanals) and has also remained as Panch of Gram Panchayat, Village Kapoorgarh and even his name was recommended by the learned Assistant Collector Ist Grade, Amloh, for appointment as *Lambardar*. It is next submitted that the learned Financial Commissioner, has wrongly set aside the orders passed by the learned Collector and learned Commissioner, only on the ground that respondent No.4-Balvir Singh and also the deceased-Avtar Singh had more land holding/s than the petitioner and respondent No.4-Balvir Singh, had worked as Sarbarah Lambardar, for six years. It is submitted that the land holding is required only for the purposes of security of land revenue to be collected by the Lambardar and for that purpose, the petitioner has sufficient land; therefore, the same could not have been made a ground for setting aside the choice of the Collector. It is, therefore, prayed that the impugned order passed by the learned Financial Commissioner, be set aside and the Collector's order, appointing the petitioner as Lambardar, be upheld.

5. Per contra, learned counsel appearing for respondent No.4 has opposed the submissions made on behalf of the petitioner, by submitting that the learned Financial Commissioner, had rightly set aside the orders

passed by the learned Collector as well as the learned Commissioner, because while appointing the *Lambardar*, the comparative merits and de-merits of the contesting candidates were not appropriately considered by the said authorities. It is submitted that respondent No.4-Balvir Singh, being a mature person and having more land holding; coupled with the fact that he had remained as Sarbarah Lambardar, for six years; deserves preference in the matter of appointment of Lambardar. Therefore, the learned Financial Commissioner, had rightly remanded the matter to the learned Collector, Fatehgarh Sahib, to make fresh appointment after duly considering the *inter-se* merits of the candidates and appointing the most meritorious and suitable candidate. Accordingly, prayer for dismissal of the writ petition has been made.

6. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

7. Here, it would be apposite to state the relative merits of the candidates, which can be summed up as under :-

| <i>S. No.</i> | <i>Particulars</i>        | <i>Petitioner<br/>(Lakhvir Singh)</i>              | <i>Resp. No.4<br/>(Balvir Singh)</i> | <i>Avtar Singh<br/>(since deceased)</i> |
|---------------|---------------------------|----------------------------------------------------|--------------------------------------|-----------------------------------------|
| 1             | Age                       | 31 years                                           | 60 years                             | 55 years                                |
| 2             | Educational qualification | B.A. pass                                          | B.A. IInd year                       | B.A. IInd year                          |
| 3             | Land holding/s            | 8 Kanal                                            | 8 Acres                              | 4 Acres                                 |
| 4             | Recommended by            | Assistant Collector<br>Ist Grade, Amloh            | ---                                  | ---                                     |
| 5             | Other remarks             | Remained Panch of<br>Gram Panchayat<br>Kapoorgarh. | Remained<br>Sarbarah<br>Lambardar    | ---                                     |

7.1 A bare perusal of the above chart would show that petitioner is younger in age and is more educated than respondent No.4 and his name was recommended by Assistant Collector Ist Grade, Amloh.

7.2 In *Mahavir Singh v. Khiali Ram and Others, 2009(1) RCR (Civil) 757*, Hon'ble Supreme Court held that with regard to the appointment of a *Lambardar* in the State of Punjab, age of a candidate is a relevant factor.

7.3 That apart, it is not disputed that the petitioner had remained Panch of the village and it is well settled that being a Sarpanch or Member Panchayat reflects upon the popularity of a particular candidate in the village and is considered as a merit and not as a de-merit. In this regard, reference can be made to a judgment rendered by the Hon'ble Punjab and Haryana High Court in the case titled “*Lakhwinder Singh v. State of Haryana*”, reported as *2016(2) R.C.R.(Civil) 4*; wherein this Court has made following observations:

*“...Rather in view of Rule 15(d)(e) of the Punjab Land Revenue Rules personal influence, character, ability, freedom from indebtedness and strength and importance of the community from which selection of a Lambardar is to be made is also required to be considered for appointment. Once a person is appointed as a Sarpanch, it means that majority of the residents of the village are in his favour and that he has personal influence over the residents of the village. It cannot be taken as a negative ground...”*

8. So far as holding of land is concerned, same is taken into consideration only for the purpose of security towards government revenue collected by the Lambardar. Petitioner has about 08 Kanals of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the *Lambardar*. Moreover, in case of *Gurpreet Singh versus Financial Commissioner (Revenue), Punjab, 2017(1) RCR (Civil)*

233, this Court has observed that land revenue stood abolished in both the State of Punjab and Haryana, long back, thus owning land by the candidates for the post of Lambardar would not be of much significance any further.

9. As regards the findings returned by the learned Financial Commissioner that Balvir Singh, had worked as Sarbarah Lambardar, for six years but learned Collector, did not give preference to him; it is observed that if such plea/ground of giving preference to a Sarbarah Lambardar, is to be accepted, it would in essence, amount to giving preference to a hereditary claim when otherwise, the provision in respect of hereditary claim offends Article 14 of the Constitution of India, as held by a Division Bench of this Court in '*Karnail Singh v. The State of Haryana etc.*', 1973 PLJ 676. Similar view was taken by the Division Bench of this Court in *Ashok Kumar vs State of Haryana*, 2012(68) RCR (Civil) 198.

10. Furthermore, in the case of *Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab*, 2016(1) RCR (Civil) 273; it was held by the Division Bench of this Court that choice of the District Collector cannot be lightly set aside, even if two views are possible, unless there is any patent illegality or perversity therein. It is also well established that the learned Collector is the main authority for appointment of the *Lambardar*. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray but also personally interacts with them. Thus, the subjective satisfaction of the Collector, could not have been ignored in a cavalier manner by the learned Financial Commissioner.

11. Considering the totality of circumstances, I am of the considered view that petitioner was rightly appointed by learned Collector, Fatehgarh Sahib, as *Lambardar* of Village Kapoorgarh, Tehsil Amloh,

District Fatehgarh Sahib, which appointment was upheld by the learned Commissioner, Patiala; however, his appointment was wrongly set aside by the learned Financial Commissioner (Appeals), Punjab vide its order dated 22.09.2022 (Annexure P-7). Resultantly, the impugned order dated 22.09.2022 (Annexure P-7), is set aside.

12. In view of the above, the instant writ petition is allowed and the order dated 19.07.2021 (Annexure P-3) passed by learned Collector, Fatehgarh Sahib, appointing the petitioner as *Lambardar* of Village Kapoorgarh, Tehsil Amloh, District Fatehgarh Sahib, is upheld.

13. In **CWP-28110-2022**, since respondent No.4 (Avtar Singh) has expired, therefore, no separate order is required to be passed therein and the said petition shall also stand disposed of.

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

15. A photocopy of this order be placed on the file of another connected case.

**July 31, 2024**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |