

2024:PHHC:158466



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

CWP-24837-2024 (O&M)
Date of decision :26.11.2024

SURJIT SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER (APPEALS), PUNJAB,
PUNJAB CIVIL SECRETARIAT-1, SECTOR 1,
CHANDIGARH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ravish Bansal, Advocate
for the petitioner.

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

HARSH BUNGER, J. [ORAL]

CM-19042-CWP-2024

This is an application for placing on record Interlocutory Orders passed by respondent No.1 in ROR No.986 of 2022 as Annexure P-14 and in ROR No.945 of 2022 as Annexure P-15.

For the reasons mentioned in the application, the same is allowed as prayed for. Annexures P-14 and P-15 are taken on record, subject to all just exceptions.

CWP-24837-2024

Petitioner (Surjit Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *certiorari* for setting aside the order dated 30.08.2022 (Annexure P-6) passed by the learned Commissioner, Faridkot Division,

Faridkot; order dated 27.03.2023 (Annexure P-7) passed by the learned Financial Commissioner (Appeals) Punjab and also the order dated 29.01.2024 (Annexure P-9) passed by the learned Financial Commissioner; whereby the Review Applications filed by the petitioner were dismissed.

2. Briefly, the petitioner was appointed as *Lambardar* of Village Beer Bholuwala, Tehsil and District Faridkot, by the learned Collector, Faridkot, vide its order dated 01.04.2021 (Annexure P-4).

2.1 Aggrieved against the afore-said order, two separate appeals were filed; one by proforma respondents and another by respondent No.4 (Arshpreet Singh) before the learned Commissioner, Faridkot Division, Faridkot; who vide its order dated 30.08.2022 (Annexure P-6) set aside the order dated 01.04.2021 (Annexure P-4) passed by the learned Collector, Faridkot and remanded the matter to the learned Collector, to decide the same afresh after hearing the parties.

2.2 Thereafter, two separate revision petitions were filed before the learned Financial Commissioner, one by the petitioner (**ROR-945-2022**), challenging the order dated 30.08.2022 (Annexure P-6) and another by respondent No.4 (**ROR-986-2022**), challenging the orders dated 01.04.2021 (Annexure P-4) and 30.08.2022 (Annexure P-6). The learned Financial Commissioner, vide its common order dated 27.03.2023 (Annexure P-7) dismissed the revision petition filed by the petitioner and accepted the revision petition filed by respondent No.4 by setting aside the orders dated 01.04.2021 (Annexure P-4) and 30.08.2022 (Annexure P-6) and further appointed respondent No.4-Arshpreet Singh as *lambardar* of Village Beer Bholuwala, Tehsil and District Faridkot.

3. Thereafter, the petitioner filed Review Applications (RA-21-2023 and RA-22-2023) seeking review of order dated 27.03.2023

(Annexure P-7) passed by the learned Financial Commissioner; however, the same were dismissed vide order dated 29.01.2024 (Annexure P-9).

4. In the afore-mentioned circumstances, the petitioner has filed the present writ petition before this Court for the relief/s, as noticed here-in-above.

5. Heard.

6. In the present case, although the petitioner was appointed as the *lambardar* of Village Beer Bholuwala by the learned Collector; however, on an appeal being filed by respondent No.4, the said order was set aside by the learned Commissioner and the matter was remanded to the learned Collector. However, on a further revision petition filed by respondent No.4, the learned Financial Commissioner, has appointed respondent No.4 as the *lambardar*, by observing as under :-

“6. I have heard counsel for both the parties, gone through their submissions and perused the order of the courts below. From the perusal of the record, I find that Surjit Singh candidate is suffering from allegations under NDPS Act, which is a serious allegation on the character of an individual. Although, Surjit Singh has been acquitted on the basis of doubt but a stigma is attached with his character. The Commissioner, Faridkot Division, Faridkot in his order dated 30.08.2022 observed that a case is registered under NDPS Act against the petitioner and Ld. Court sentenced him of 10 years imprisonment and fine of One Lakh and Arshpreet Singh is grandson of deceased lambardar and remanded the case to District Collector, Faridkot to rehear both the parties and decide the matter afresh. In this regard, I am of the considered view that there would be no reason to remand the case to District Collector, Faridkot, as the Commissioner, Faridkot Division, Faridkot already came to the

conclusion that there is a criminal case registered against Surjit Singh. It must be kept in mind while remanding the matter although remanding the case is discretion with the appellate court but it should be rarely exercised where the appellant court cannot evaluate the evidence on its own. The exercise of discretionary power of remand would depend upon the nature of the dispute and extent of evidence that may have to be appreciated. When the remand is going to result in an avoidable prolongation of the litigation between the parties, it must be avoided. In the present case there was no reason to remand the case to the District Collector as Commissioner, Faridkot Division, Faridkot himself is competent to adjudicate upon the issue as there is illegality and perversity in the order dated 01.04.2021 passed by District Collector, Faridkot. In this case, the choice of Collector i.e. Surjit Singh is a person who has been tried in a criminal case and thereafter has been acquitted on the basis of doubt. An accused who has been tried in a criminal case and thereafter acquitted is yet to carry the stigma of being tried in a criminal case, depend on each case. These are circumstances which would require serious consideration by the authorities. The circumstances leading to acquittal and whether the same would yet entail a stigma are to be considered in each case on the basis of material on record. However, when another contesting candidate younger in age, enjoying clean image is available, he should be preferred. If a person with criminal background is appointed, it would amount to contravention of Rule 15 which requires several factors including the age, reputation and character of the person to be appointed as lambardar. It is the duty of the revenue authorities that only a suitable candidate should be appointed for the post of Lambardar. The Hon'ble High Court in the case titled as Mohinder Pal

versus The Financial Commissioner, Haryana & others report as 2013(3) L.A.R. 95 (P&H) has held that “Endeavour of the revenue authorities should be to appoint a person of clean image and most suitable out of the contesting candidates.” After going through the comparative merits of both the candidates, I find that Arshpreet Singh is more educated, is younger in age, is having hereditary claim, having clean image and is more meritorious candidate than Surjit Singh. But the District Collector as well as Divisional Commissioner has failed to consider these aspects. Thus, there is clear non-observance of the settled law by the District Collector as well as Commissioner and both the orders of the lower courts suffer from illegality and perversity.

7. Therefore, keeping in view the aforesaid facts and circumstances of the case and in order to end the prolonged litigation and after going into the law settled in Hon’ble High Court in the case of Tek Ram versus Financial Commissioner Revenue, Haryana and others 1998(3) RCR (Civil) 90 has held that the appellate or Revisional authority has the same right to pass the same order that can be passed by the Collector, I accept the revision petition ROR No.986 of 2022 and set aside the order dated 30.08.2022 passed by Commissioner, Faridkot Division, Faridkot and order dated 01.04.2021 passed by District Collector, Faridkot. Sh. Arshpreet Singh is appointed as lambardar of village Beer Bholuwala, Tehsil and District Faridkot. The District Collector, Faridkot is directed to issue ‘Sanad Lambardari’ in his favour. The revision petition ROR No.945 of 2022 filed by Surjit Singh is dismissed being devoid of any merit. Copy of this order be communicated to the courts below. File be consigned to the record room.”

7. The only argument raised by learned counsel for the petitioner

was a criminal case registered against him. It is submitted that the petitioner already stands acquitted in the said case vide judgment dated 21.09.2011 (Annexure P-10) passed by this Court in ***CRA-S-1076-SB-2003***; therefore, there was no dis-qualification attached to the candidature of the petitioner.

8. I have considered the afore-said submissions made on behalf of the petitioner. It is not disputed before this Court that the petitioner was earlier convicted in case FIR No.100 dated 14.07.2011 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Nahianwala, District Bathinda, vide judgment dated 15.05.2003 passed by the learned Special Judge, Bathinda; wherein, the petitioner was sentenced to undergo imprisonment for ten years along with fine of Rs.one lac. It is also not disputed that the petitioner remained in custody for a period of over two years. It is further not disputed that even the wife of the petitioner was involved in one case i.e. FIR No.150 dated 20.12.2003, registered at Police Station Kotkapura, District Faridkot, as 5 kgs. opium was allegedly recovered from her.

8.1 No doubt, the petitioner was acquitted in the above-referred case FIR No.100 dated 14.07.2011 vide judgment dated 21.09.2011 (Annexure P-10); however, the learned Financial Commissioner has appointed respondent No.4, as the *Lambardar* by *inter-alia* observing that once a person with clean image is available, then he should be appointed as the *lambardar*.

9. I find no illegality or perversity in the afore-said observations/findings made by learned Financial Commissioner, especially in view of the judgment rendered by a Division Bench of this Court in case ***Harjit Singh vs State of Punjab, 2023(4) RCR(Civil) 408***, wherein, it has been *inter alia*, held that the persons having criminal antecedents, cannot be

permitted to be appointed as *lambardar*. It is also well settled that a headman should be free from any stigma of criminal litigation, as has been observed in case of *Iqbal Singh vs Financial Commissioner, Appeals-1 and others, 2018(4) PLR 714*.

10. Furthermore, in *Mohinder Pal vs The Financial Commissioner, Haryana, 2013(3) LAR 95*, it was observed by this Court that the endeavor of the revenue authorities should be to appoint a person of clean integrity and image.

11. In view of the afore-mentioned facts and circumstances, I do not find any merit in the present writ petition and the same is accordingly dismissed.

12. All pending application(s), if any, shall also stand closed.

November 26, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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