



CWP-24961-2024

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

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CWP-24961-2024

Date of decision: 07.11.2024

MUNISH KUMAR

....PETITIONER

Vs.

FINANCIAL COMMISSIONER (APPEALS) PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.S. Chauhan, Advocate and
Mr. Rohit Sapehiya, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 18.12.2023 (Annexure P-10) whereby Financial Commissioner (Appeals) Punjab has dismissed revision petition; order dated 08.09.2021 (Annexure P-7) whereby Commissioner Jalandhar Division, Jalandhar has dismissed appeal of the petitioner, and order dated 28.11.2017 whereby District Collector, Jalandhar has appointed respondent No. 4 as 'Lambardar'.

2. Karnail Singh, Lambardar of Mohalla Abadpura, Tehsil Jalandhar-1, Jalandhar passed away on 17.05.2011. The respondent conducted Munadi in the village and invited applications from interested candidates. Seven candidates filed their applications. The District Collector by order dated 15.05.2012 appointed petitioner as Lambardar. He belongs to Schedule Caste Category. The earlier Lambardar was also from this category. District Collector on 22.08.2012



issued Sanad Lambardari. The respondent No. 4 herein filed appeal against order of appointment of petitioner. Commissioner vide order dated 24.02.2016 allowed appeal and remanded the matter back to District Collector for passing a fresh order. On remand, the District Collector vide order dated 28.11.2017 appointed respondent No. 4 as Lambardar. The petitioner unsuccessfully preferred appeal before Commissioner. He further preferred revision before Financial Commissioner (Appeals) Punjab who vide impugned order dated 18.12.2023 dismissed revision petition.

3. Mr. R.S. Chauhan, Advocate submits that respondent No. 4 is a deed writer and carrying out his activities in Tehsil which is located at a distance of 2 kilometers from the village. If he is permitted to continue, the villagers would have to visit Tehsil for their every grievance. It would cause unwanted inconvenience to them.

4. I have heard the arguments and perused the record.

5. From the perusal of record, it comes out that petitioner at the first instance was appointed as Lambardar, however, his appointment was set-aside by Appellate Authority and matter was remanded back to District Collector. The matter was reconsidered by District Collector and respondent No. 4 came to be appointed as Lambardar. The petitioner unsuccessfully preferred an appeal before Commissioner as well as revision before Financial Commissioner (Appeals). The Authorities in the impugned orders have rejected objections of the petitioner including question of availability of respondent No. 4. The relevant extracts of findings recorded by Financial Commissioner (Appeal) are reproduced as below:-

“6. I have heard and considered the arguments advanced by Counsel for the parties and perused the documents available on



record and also gone through the written arguments submitted by the parties. In the present case the petitioner has claimed that respondent remains out of the village during day time since the respondent is Deed writer and remains at Tehsil Complex, Jalandhar for his work. In rebuttal of this plea, the Counsel for the respondent submitted that the respondent remains available and accessible in the area of Abadpura round the clock and the Tehsil Complex is situated at the distance of about two kms. from Mohalla Abadpura and the respondent is easily available. After considering the relevant Rules of 1909, I find that there is no bar by which a deed writer cannot be appointed as lambardar. I agree with the contention of the respondent as his availability in the area of Abadpura round the clock as the Tehsil Complex is situated at the distance of about two Kms. form Mohalla Abadpura. Working of deed writer is not fatal to the claim of the respondent as everybody is supposed to do some work to earn his livelihood. The another allegation levelled by the petitioner on the respondent is that he is involved in criminal case bearing FIR No. 95 dated 04.05.2003. In this regard, the respondent submitted that the FIR No. 95 dated 04.05.2003 was ordered to be quashed vide order dated 05.02.2020 by Hon'ble Punjab and Haryana High Court. Therefore, this plea of the petitioner against the respondent is also not sustainable in the eyes of law. The District Collector, Jalandhar after evaluating the comparative merits of the candidates, vide order dated 28.11.2017, appointed the respondent as lambardar of the village. The order of the District Collector has been upheld by the Commissioner, Jalandhar Division, Jalandhar in appeal. Hon'ble Supreme Court of India in the case of Mahavir Singh versus Khiali Ram & others reported as 2009 (1) RCR (Civil) 757 that "there should not be interference with the choice of made by the collector in the appointment of lambardar even if two views are possible. It is only the prerogative of the collector to compare the merits of the candidates for appointment to the post of lambardar Keeping in



view the facts and circumstances of the present, I do not find any reason to interfere with orders passed by the courts below.

7. Resultantly, the present revision petition is dismissed and the order dated: 08.09.2021, passed by the Commissioner, Jalandhar Division, Jalandhar and order dated: 28.11.2017 passed by the District Collector, Jalandhar are upheld. Copy of this order be communicated to the courts below. File be consigned to the record room.”

6. This Court cannot determine suitability of the parties especially when respondent No. 4 is not suffering from any disability which makes him ineligible for the post. The petitioner is simply claiming that he is more meritorious and available to the villagers. The respondent is also resident of the same village and is a deed writer and remains in Tehsil Complex. There is no complaint of the villagers and petitioner cannot be heard to say that he is always available and respondent No. 4 is not available.

7. In any case, the authorities have examined all the arguments of the petitioner and this Court keeping in mind paras 50-52 judgment of Supreme Court in ‘*Central Council for Research in Ayurvedic Sciences Vs. Bikartan Das and others 2023 SCC OnLine SC 996*’ does not find it appropriate to interfere with impugned orders and invoke writ jurisdiction of this Court.

8. Dismissed.

07.11.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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