



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

LPA No.2664 of 2024 (O&M)

Date of Decision: 28.10.2024

Phool Kumar

.....Appellant.

Versus

State of Haryana and others

.....Respondents.

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

Present:- Mr. Sanjiv Gupta, Advocate
 for the appellant.

G.S. SANDHAWALIA, J.(Oral)

Challenge in the present Letters Patent Appeal is to the order dated 03.09.2024 passed by the learned Single Judge in ***CWP No.10711 of 2019***, whereby the writ petition filed by the private respondent No.4-Manoj Kumar was allowed and the matter was remanded to the Collector, Karnal (here-in-after to be referred as 'the Collector') to decide the same afresh, after setting-aside the order dated 01.04.2019 (Annexure P-3) passed by the Financial Commissioner, Haryana (here-in-after to be referred as 'the Financial Commissioner'). Thus, in effect restoring the order dated 09.04.2018 (Annexure P-2) of the Divisional Commissioner, Karnal Division, Karnal (here-in-after to be referred as 'the Commissioner'), who had earlier remanded the matter to the Collector by coming to the



conclusion that the order was based on assumptions and presumptions.

2. We have gone through the order dated 28.03.2017 (Annexure P-1) passed by the Collector and find that the finding recorded by the learned Single Judge is also correct that the said order was based on irrelevant considerations and the same is patently illegal and arbitrary. The settled principles as such had not been taken into consideration, while appointing the present appellant as Scheduled Caste *Lambardar* of Village Gudha, Tehsil Indri, District Karnal. It is in such circumstances, the learned Single Judge has upheld the order dated 09.04.2018 (Annexure P-2) passed by the Commissioner and was fully justified in doing so. Even otherwise, once the matter has been remanded, the same should be decided afresh and the time period has also been fixed as nine months by the learned Single Judge, while remanding the same and we do not find any illegality with the said course of action.

3. The reasoning which has been weighed with the Commissioner, was lost sight of by the Financial Commissioner vide order dated 01.04.2019 (Annexure P-3), who interfered with the order of the Commissioner by observing that the matter has been remanded to verify the authenticity of the documents submitted by the present appellant and the fact that the documents submitted were not suspicious one's nor verified.

4. The factum that the Commissioner, in the earlier part of the order, had come to the finding that the order passed by the Collector was based on assumptions and presumptions, was correct, which has also been



noticed by the learned Single Judge. The relative merits of the candidates not having been assessed in a proper manner *inter-se* parties, has led to the perversity of the order passed by the Collector. The educational qualifications and the age factor were also not examined by the Collector, while appointing the present appellant.

5. It is in such circumstances, rectification has been done by the Commissioner and has been duly upheld by the learned Single Judge. Therefore, we do not find any illegality in the order passed by the learned Single Judge, while allowing the writ petition. Thus, there is no scope for interference and resultantly, the present appeal is dismissed in *limine*.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

October 28, 2024
Yag Dutt

Whether speaking/reasoned: Yes
Whether Reportable: No