



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.1933 of 2023 (O&M)
Date of Decision: 17.09.2024

Balwinder Singh

.....Appellant.

Versus

Ld. Financial Commissioner Punjab and others

.....Respondents.

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

Present:- Mr. N.P.S. Mann, Advocate
 for the appellant.

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

Mr. Sunny K. Singla, Advocate
for respondent No.4.

G.S. SANDHAWALIA, J.(Oral)

CM No.4836-LPA of 2023

This application under Order 41 Rule 27 read with Section 151 CPC has been moved on behalf of the applicant-appellant for seeking permission to place on record the additional documents as Annexures A-1 to A-4.

The application is allowed and the documents Annexures A-1 to A-4 are taken on record.



LPA No.1933 of 2023

The present Letters Patent Appeal is directed against the judgment dated 07.10.2023 passed by learned Single Judge in **CWP No.3259 of 2018**, whereby the writ petition filed by respondent No.4-Harbans Singh was allowed and the order dated 28.01.2013 (Annexure P-2) passed by the District Collector, Roopnagar and the order dated 06.12.2017 (Annexure P-4) passed by the Financial Commissioner (Revenue), Punjab, were set-aside, which, in turn, had upheld the order of the appointment of the present appellant Balwinder Singh.

2. Learned Single Judge came to the conclusion that the case needed to be decided afresh by the Collector for the appoint of Lambardar of Village Malookpur, Tehsil Nangal, District Roopnagar, keeping in view the *inter-se* merits of both the candidates and the law settled, and the matter was remanded to the Collector, vide the impugned judgment dated 07.10.2023. It is also to be noticed that vide order dated 16.05.2024, the Co-ordinate Bench had directed to maintain status-quo with regard to appointment of Lambardar for Village Malookpur.

3. Learned counsel for the appellant has, candidly, put forth that the reasoning given by learned Single Judge was on two counts, which is against the record. It is submitted that learned Single Judge came to the conclusion that the acquittal of the appellant in FIR No.110/04 dated 07.10.2004 under Sections 466/447/ 465/467/468/471/120-B IPC registered at Police Station, Nangal was after the appointment of the appellant by the District Collector on 28.01.2013 (Annexure P-2) since the Judicial Magistrate 1st Class, Anandpur Sahib, vide order dated 28.05.2012, had



granted the said benefit of doubt.

4. Similarly, the finding recorded by learned Single Judge was that the Collector had not taken into consideration the fact that the appellant was facing trial in the FIR and therefore, while keeping in mind that the writ petitioner was 10th class pass and the selected candidate was 9th class passed, learned Single Judge came to the conclusion that the order of learned District Collector suffers from perversity.

5. We have perused the paper book. It is apparent that the Collector, while considering the relative merits of as many as six candidates, had opted to appoint the present appellant. Perusal of the order passed by the Collector dated 28.01.2013 (Annexure P-2) would go on to show that it was specifically noticed that there was an acquittal recorded on 28.05.2012 by the Judicial Magistrate 1st Class, Anandpur Sahib and it was noticed that there was no other case pending against him and in such circumstances, the findings recorded by learned Single Judge that the acquittal of the present appellant was after the appointment, is against the record. Learned Collector, apparently, also considered the merit *inter-se* of the parties and there is very little difference amongst the two candidates, as also noticed by the Collector. The present appellant is 9th class pass, whereas the writ petitioner is 10th class pass. The added advantage of the present appellant is that he is 46 years old and therefore, in view of the law settled in *Mahavir Singh Versus Khiali Ram and others 2009(3) SCC 439*, he was younger candidate and had to be given preference which fact has also escaped the notice of learned Single Judge.

6. Apparently, the writ petitioner is 54 years old. The quantum of



land is also approximately the same qua both the candidates. The other reason which also apparently weighed with the Collector was that the appellant had donated 10 Marlas of land as a passage comprising in Khasra No.12R 6 (8-0) 21R9/2 (0-8) Banjar Qadim and 26 Karam x 2 Karam to Gram Panchayat of Village Bela Dhiani and he had also donated blood many times as he is a blood donor. The necessary documents had been enclosed at that point of time.

7. We have also gone the judgment dated 28.05.2012 (Annexure A-1) whereby the present appellant had been acquitted by learned Judicial Magistrate 1st Class, Anandpur Sahib. The trial Court had, after detailed consideration, come to the conclusion that the prosecution was not able to prove the case against the accused beyond the shadow of reasonable doubt and therefore, acquitted them. Apparently, the said judgment was never challenged by the complainant and this fact was duly considered by the Collector and also noticed by the Financial Commissioner while reversing the order dated 02.12.2016 (Annexure P-3) passed by the Commissioner, who had opted to take on the mantle of appointment of the writ petitioner as a Lambardar which was rightly corrected by the Financial Commissioner vide order dated 06.12.2017 (Annexure P-4) by noting that the order of the District Collector was a detailed one and on the basis of proper examination of the relative merits of the candidates.

8. Thus, in view of the settled law and in the absence of any perversity, the order dated 02.12.2016 (Annexure P-3) passed by the Commissioner is not justified regarding the appointment of Lambardar as the Collector is the best person to appoint the Lambardar. The order of



Commissioner dated 02.12.2016, whereby he has chosen to interfere and disturb the appointment as such would go on to show that without recording any findings of perversity or illegality in the order passed by the Collector, he had given a separate opinion that the writ petitioner Harbans Singh was more educated. The said error was duly corrected by the Financial Collector and therefore, we are of the considered opinion that the order of Financial Commissioner upholding the appointment of the appellant as Lambardar is justified.

9. In such circumstances, the reasoning given by learned Single Judge is contrary to the record and therefore, the direction given to remand the matter was not justified. Thus, we have no other option but to allow the appeal and to set-aside the impugned judgment dated 07.10.2023 passed by learned Single Judge.

10. Ordered accordingly.

(G.S. SANDHAWALIA)
JUDGE

September 17, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No