

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-491-2020 (O/M)

Date of decision : 20.11.2025

Jaswinder Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Krishan S. Dadwal, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. K.B.S. Mann, Advocate
for respondent No. 4.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside order dated 23.09.2019 (Annexure P-5), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner').

2. Briefly, on demise of Shri Daya Singh, previous Lambardar of village Taragarh, Tehsil and District Hoshiarpur, proceedings were initiated for filling up the aforesaid vacancy, wherein petitioner (Jaswinder Singh) and respondent No. 4 (Harpreet Singh) were also the candidates.

2.1 The Tehsildar, Hoshiarpur recommended the candidature of petitioner for appointment to the aforesaid vacancy, whereas Sub Divisional Magistrate, Hoshiarpur recommended the candidature of

respondent No. 4 and placed the matter before learned Collector, Hoshiarpur (in short 'Collector').

2.2 Learned Collector, after considering the relative merits and demerits of candidates, found petitioner as suitable candidate and accordingly, appointed him as Lambardar of village Taragarh, vide order dated 16.07.2015 (Annexure P-1).

2.3 Being dis-satisfied, respondent No. 4 preferred an appeal against learned Collector's order dated 16.07.2015 (Annexure P-1) before learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner'), however, same was dismissed, vide order dated 18.01.2017 (Annexure P-2).

2.4 Still aggrieved, respondent No. 4 preferred a revision petition (ROR-267-2017) before learned Financial Commissioner, which was allowed, vide impugned order dated 23.09.2019 (Annexure P-5), whereby order dated 16.07.2015 (Annexure P-1), passed by learned Collector and order dated 18.01.2017 (Annexure P-2), passed by learned Divisional Commissioner, were set aside.

3. In the aforementioned circumstances, petitioner has filed the instant civil writ petition before this Court for seeking relief(s), as noticed hereinabove

4. It is worth noticing that vide order dated 10.01.2020, passed by a coordinate bench of this Court, operation of impugned order dated 23.09.2019 (Annexure P-5), passed by learned Financial Commissioner, was stayed.

5. Heard.

6. In this case, petitioner was appointed as Lambardar of village Taragarh by learned Collector and same was further affirmed by learned Divisional Commissioner, however, learned Financial Commissioner, vide impugned order dated 23.09.2019 (Annexure P-5), set aside the orders passed by learned Collector as well as learned Divisional Commissioner by observing as under :-

“6. I have heard counsels for both the parties and perused the order of the courts below. I have also gone through the written arguments submitted by the parties and documents produced in support of their case. On perusal of the file and scrutiny of documents, I find that District Collector and the Commissioner has appointed the respondent as lambardar on the ground that he owns a land measuring 5 acres and 7 kanals. He is agriculturist and owns Tractor and Trolly. He is financially in good position etc. The Commissioner as well as District Collector has not given any reference to provisions of Rule 15 of Punjab Land Revenue Rules. Thus, this case requires fresh consideration of merits and demerits of both the candidates as per provisions of Punjab Land Revenue Rules. So far as age of the parties is concerned, there is not much difference between them. The petitioner is born in 1974 and the respondent is born in 1973. Thus, the age of the parties cannot be the only criteria for appointment of lambardar. The difference lies when I compare other merits and demerits of both the candidates. In this case the petitioner is owner of 66K-13 marlas of agriculture land and also owned a residential house in the village. On the other hand, the respondent owns 47 kanals of land. The petitioner is son of the deceased lambardar Daya Singh and his grandfather Ujagar Singh was also lambardar. Thus, he is also having a hereditary claim for the post of lambardar. As per Rule 15 of the Punjab Land

Revenue Rules, 1908 (applicable to the Punjab), at the time of appointment of the Lambardar, regard shall be had to various factors including the hereditary claim. Hon'ble Punjab and Haryana High Court in the case of titled as Bhag Singh versus Financial Commissioner, Haryana 2001 (1) RCR (Civil) P&H 9 has held as under :-

“Hereditary claim is one of the considerations for selection. Office of Lambardar is not a hereditary office. Son of a Lambardar shall not be automatically appointed. However, when the other merits of contesting candidates are found to be equal, Rules provide preference to hereditary claims. Preference on that ground, when the candidates are otherwise equally placed, held not illegal or unfair.”

Thus, in order to give benefits of hereditary, there should be comparative merits and demerits of both the candidates. There is no dispute that the petitioner is 10+1 class pass and respondent is 10th pass. He can read Punjabi, Hindi and English and possess some land also in the village. The name of the petitioner is recommended by the SDM, Hoshiarpur. There is nothing against the petitioner. On the other hand, in case of the respondent, Punjab Wakaf Board, vide letter dated 11.3.2001 imposed a fine of Rs. 10,000/- on respondent Jaswinder Singh on account of illegal cutting of trees from Wakf Land of village Taragarh. After comparing the merits and demerits of both the candidates, I find that petitioner is most suitable candidate for the post of lambardar and deserves to be appointed on the grounds of merits. The SDM, Hoshiarpur has also recommended his name for the post of lambardar but the District Collector has not mentioned any reason to disagree with the report of SDM, Hoshiarpur. If reports of the revenue officers are to be discarded without assigning any reason then the entire exercise of getting reports from the revenue officers becomes

meaningless. Therefore, keeping in view the facts and circumstances of the case brought to my knowledge, I am of the view that order passed by the District Collector dated 16.07.2015 and the order dated 18.01.2017 passed by the Commissioner, Jalandhar Division, Jalandhar is perverse, illegal and liable to be set aside.

7. Therefore, I accept the present revision petition and set aside the order dated 18.01.2017 passed by the Commissioner, Jalandhar Division, Jalandhar and order dated 16.07.2015 passed by the District Collector, Hoshiarpur. Copy of this order be communicated to the courts below. File be consigned to the record room.”

6.1 A perusal of above extracted order would show that learned Financial Commissioner has set aside petitioner's appointment as Lambardar primarily on three grounds; firstly that respondent No. 4 has hereditary claim; secondly, that Punjab Wakf Board, vide order dated 11.03.2001 had imposed a fine of Rs. 10,000/- on petitioner on account of illegal cutting of trees from Wakf land and thirdly, that name of respondent No. 4 was recommended by learned Sub Divisional Magistrate.

7. I have considered the aforesaid reasons recorded by learned Financial Commissioner to upset the appointment of petitioner as Lambardar. As far as hereditary claim of respondent No. 4 is concerned, the same has been held to be ultra vires the Constitution, by a Division Bench of this Court in ***Karnail Singh Versus State of Haryana etc., 1973 PLJ 676.***

8. As regards the second ground that fine of Rs. 10,000/- was imposed on petitioner; suffice it to say that neither any such document has been placed on record in this writ petition nor a copy of letter

dated 11.03.2011 has been shown during the course of hearing of this writ petition.

8.1 It is worth noticing that as per para 15 of writ petition, it has been explained by petitioner that the amount of fine of Rs. 10,000/- was paid to Punjab Wakf Board as compensation for cutting the tree. It is further explained that the tree was cut in order to save lives of residents of village as well as to protect the public property as the same was about to fall in a day or two.

8.2 Learned counsel for petitioner has further referred to his written arguments submitted before learned Financial Commissioner, wherein in para 8 (iv), following stand was taken :-

“iv. That in the petition, the petitioner has mentioned that the answering respondent was fined Rs. 10000/- for illegally cutting the Waqf Board tree and respondent is defaulter of loan and it is mentioned that the documents were submitted before the Lower Court. The answering respondent submits that no document has been produced on record by the petitioner and therefore, he is trying to mislead this Hon'ble Court. The answering respondent submits that there was old banyan tree in the village, which was in the depleted condition and may have fallen any time and may have cause damage to the property and as well as to the life of the residents of the village therefore, the residents of the village have decided to cut the tree and for that purpose, compensation of Rs. 10000/- was given to the Wakf Board regarding which the proper receipt was issued, to which the petitioner is projecting as a fine. Further, the wood of the tree was donated in the Gurudwara Hariyan Belan, thus, at no point of time any fine was imposed on the answering respondent, rather the petitioner by twisting the fact is trying to mislead this Hon'ble Court.”

8.3 It is noticeable that respondent No. 4 has not filed any written statement to the instant civil writ petition and said above referred assertion of petitioner has gone uncontroverted.

9. As regards third ground that name of respondent No. 4 was recommended by learned Sub Divisional Magistrate; it is observed that the recommendation by the Lower Revenue Officers is not binding on the learned Collector and learned Collector has to apply his own judicious mind while making appointment of Lambardar by considering various factors, as per law.

10. Upon considering the matter, I am of considered view that there was no illegality or perversity in the order passed by learned Collector, whereby petitioner was appointed as Lambardar. Furthermore, learned Collector's order was affirmed by learned Divisional Commissioner. The grounds, on which learned Financial Commissioner has set aside the petitioner's appointment, are untenable in law and is otherwise also against well settled position that in the matter of appointment of Lambardar, the choice of learned Collector cannot be lightly interfered, even if two views are possible, unless there is any patent illegality or perversity therein.

10.1 Recently, Hon'ble Division Bench of this Court in LPA-2217-2024, titled as ***Murti Devi Versus State of Haryana and others***, decided on 09.07.2025, has also observed as under :-

“8. Moreover, it is a settled position that choice of the Collector in respect to appointment to the post of Lambardar should not be set aside until and unless there is patent illegality or perversity pointed out therein. Interference is also not called for only on the ground that two views may be

*possible. In this respect gainful reference can be made to judgments of this High Court in **Neeraj Kumar Versus State of Haryana and others, 2013 (4) RCR (Civil) and Sukhminder Singh Versus The Financial Commissioner and others, 1992 PLJ 325.***”

11. In view of above discussion, order dated 23.09.2019 (Annexure P-5), passed by learned Financial Commissioner is unsustainable in the eyes of law and same is accordingly set aside. Further, order dated 16.07.2015 (Annexure P-1), passed by learned Collector, appointing the petitioner as Lambardar of village Taragarh, is hereby maintained.

12. The instant civil writ petition is allowed and disposed of in the aforestated terms.

13. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

20.11.2025
sjks

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