

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

CWP-664-2020 (O&M)
Date of decision :07.01.2025

JASPAL SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Anil Kumar Sharma, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. U.K. Kanwar, Advocate
for respondents No.4.

HARSH BUNGER, J. [ORAL]

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Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 15.07.2016 (Annexure P-3), passed by the learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner') and also the order dated 02.09.2019 (Annexure P-6), passed by learned Financial Commissioner, Punjab (in short 'Financial Commissioner').

2. Briefly, on demise of Shri Hazura Singh, previous *Lambardar* of village Khanni, Tehsil Garhshankar, District Hoshiarpur, proceedings were initiated for filling up the vacancy; wherein, petitioner-Jaspal Singh as well as respondent No.4-Balvir Singh were also the candidates. The learned Tehsildar, Garhshankar as well as learned Sub-Divisional Magistrate, Garhshankar recommended the candidature of petitioner-Jaspal Singh and placed the matter before the learned Collector, Hoshiarpur.

2.1 The learned Collector, Hoshiarpur; vide order dated 18.04.2012 (Annexure P-2), appointed the petitioner-Jaspal Singh, as *Lambardar* of village Khanni.

2.2 Feeling aggrieved against the Collector's order, respondent No.4-Balvir Singh preferred an appeal before the learned Commissioner, Jalandhar Division, Jalandhar; which came to be allowed vide order dated 15.07.2016 (Annexure P-3), whereby learned Collector's order dated 18.04.2012 (Annexure P-2) was set aside and respondent No. 4-Balvir Singh, was appointed as *Lambardar*.

2.3 Being dis-satisfied with the Commissioner's order dated 15.07.2016 (Annexure P-3), the petitioner-Jaspal Singh, preferred a revision petition (***ROR 806 of 2016***) before the learned Financial Commissioner, which came to be dismissed vide order dated 02.09.2019 (Annexure P-6).

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

3. Heard.

4. Apparently, Petitioner-Jaspal Singh was appointed as *Lambardar* by learned Collector vide its order dated 18.04.2012 (Annexure P-2), however on an appeal filed by respondent No.4-Balvir Singh, learned Divisional Commissioner, vide its order dated 15.07.2016 (Annexure P-3), set aside the learned Collector's order dated 18.04.2012 (Annexure P-2) and appointed respondent No. 4 as *Lambardar* of village Khanni, by observing as under :-

“...I have considered the arguments advanced by both the parties and have also perused the orders passed by the District Collector, Hoshiarpur. Perusal of the orders and reports, which are available on record established that the respondent

has less land in Hako Patti, to which the Lambardari pertains. Respondent Jaspal Singh has admitted this fact in the court that he is working at the Cloth shop at Jaijon and in the need of the hour, he cannot left his work. So, keeping these facts in view the appeal is accepted, orders of the District Collector, Hoshiarpur is set aside and Sh. Balbir Singh is appointed as Lambardar of village Khanni, Tehsil Garhshankar, District Hoshiarpur.”

4.1 Evidently, petitioner has been non-suited on the ground that he would not be readily available in the village for performing the duties of a *Lambardar*, as he was working at a cloth shop in village Jaijon.

5. The sole argument raised by learned counsel for the petitioner is that the finding returned by learned Commissioner that petitioner is working in a shop is without any evidence and in fact, the petitioner had also tendered an affidavit dated 20.05.2016 (Annexure P-9) before learned Commissioner that he was not working in any shop in village Jaijon, however the said fact has not been considered.

6. I have considered the aforesaid plea; however, I do not find any merit in the same for the reasons mentioned, here-in-after.

6.1 It is noticed from the *zimni* orders (Annexure P-10) passed by learned Commissioner that the arguments were heard by learned Commissioner on 20.05.2016 and the matter was adjourned to 08.07.2016 for orders. There is no material on record to show that the petitioner had ever tendered the so-called affidavit dated 20.05.2016 (Annexure P-9) before learned Commissioner asserting that he was not working in any shop in village Jaijon.

6.2 Further, even if the aforesaid plea of the petitioner that he had tendered an affidavit dated 20.05.2016 (Annexure P-9) before learned Commissioner that he was not working in any shop in village Jaijon; is

accepted for the sake of arguments; then in that eventuality, the petitioner should have sought review of the order passed by learned Commissioner. Apparently, no such recourse was taken by the petitioner.

6.3 Still further, neither in the grounds of revision filed by petitioner-Jaspal Singh before the learned Financial Commissioner nor in the written arguments submitted on behalf of the petitioner before the learned Financial Commissioner; any such plea/ argument had been raised that petitioner had tendered an affidavit dated 20.05.2016 (Annexure P-9) before learned Commissioner asserting that he was not working in any shop in village Jaijon. There is also no plea taken either in the grounds of revision or in the written argument (Annexure P-11) before the learned Financial Commissioner that petitioner was not working in any shop in village Jaijon.

6.4 That apart, para no. 4 of the so-called affidavit (Annexure P-9) gives an interesting reading, which reads thus:-

“4. That I am not working at any shop in village Jaijon Doaba, Tehsil Garhshankar, Distt. Hoshiarpur as alleged by the appellant before this Hon'ble Court. Any of the letter / writing produced by the appellant before this Hon'ble court with regard to the alleged working of the respondent/deponent is wrong document and it has been procured by the appellant just to create a vague evidence against the deponent...”

6.5 It appears from above extracted para no. 4 of the affidavit *ibid* that some evidence had been placed before the learned commissioner as regards working of petitioner in a shop in village Jaijon.

6.6 Learned Commissioner has clearly recorded in his order that the petitioner had admitted in Court that he was working at the cloth shop at Jaijon and in the need of the hour, he cannot leave the work.

6.7 In case of *Gurinder Singh v. State of Punjab, 2015(3) RCR (Civil) 1041*; this Court had observed that for rendering service to the village community, the presence of the *Lambardar* in the village has to be ensured and in the event of non-availability, the superior qualifications of a candidate are of no consequence.

6.8 Therefore, once the petitioner has admitted his non-availability in village on account of his working in a shop, no fault can be found with the order dated 15.07.2016 (Annexure P-3) passed by learned Divisional Commissioner, whereby he set aside learned Collector's order dated 18.04.2012 (Annexure P-2) and appointed respondent No. 4 as *Lambardar* of village Khanni.

6.9 The aforesaid order dated 15.07.2016 (Annexure P-3) passed by learned Divisional Commissioner has been further affirmed by the learned Financial Commissioner vide its order dated 02.09.2019 (Annexure P-6).

7. Considering the totality of circumstances, I am of the considered view that the learned Divisional Commissioner was justified in setting aside learned Collector's order dated 18.04.2012 (Annexure P-2) and further appointing respondent No.4–Balvir Singh as *Lambardar* of village Khanni.

7.1 Resultantly, the instant civil writ petition fails and the same is accordingly dismissed.

8. All pending application/s, if any, shall also stand closed.

January 7, 2025

gurpreet

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(HARSH BUNGER)
JUDGE