

132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4216-2025 (O/M)
Date of decision : 15.02.2025

Devinder Singh Petitioner

Versus

Financial Commissioner (Revenue), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. G.S. Salana, Advocate
for the petitioner.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Devinder Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 03.10.2023 (Annexure P-4), passed by learned Commissioner, Patiala Division, Patiala (in short 'Divisional Commissioner') and order dated 25.07.2024 (Annexure P-6), passed by learned Financial Commissioner, Punjab (in short 'Financial Commissioner').

2. Briefly, vide order dated 17.03.2020 (Annexure P-3), passed by learned Collector, Patiala (in short 'Collector'), the petitioner was appointed as Lambardar (General Category) of village Duladi, Tehsil Nabha, District Patiala. The aforesaid order dated 17.03.2020 (Annexure P-3) was challenged by respondent No. 4 (Jagatbir Kaur) by filing an appeal before the learned Divisional Commissioner; who vide order dated 03.10.2023 (Annexure P-4), set aside the learned Collector's order dated 17.03.2020 (Annexure P-3) and remanded the matter to the learned Collector by observing as under :-

“5. I have given my due consideration to the submissions made by the appellant and have also closely perused the record available on file. In this case, the Collector has appointed the respondent Devinder Singh as Lambardar of the village vide order dated 17.03.2020. After perusing all the facts of the case, it is evident that earlier Harjinder Singh @ Rajinder Singh @ Jagmail Singh was appointed as lambardar of the village and Jaswant Singh was appointed as Sarbrah of Harjinder Singh and has never been appointed as lambardar of the village. There is no entry/rapat in the revenue record regarding appointment of Jaswant Singh as lambardar of the village. The actual lambardar of the village was Harjinder Singh @ Rajinder Singh @ Jagmail Singh who died on 24.03.2018. Jaswant Singh who was the sarbrah of lambardar Harjinder Singh @ Rajinder Singh @ Jagmail Singh had died on 05.07.2012 prior to death of original lambardar Harjinder Singh @ Rajinder Singh @ Jagmail Singh. But the lower revenue authorities wrongly initiated the lambardari proceedings on account of the death of sarbrah lambardar Jaswant Singh which is unjustified. Under the normal circumstances, in the matter of appointment of Lambardar, the choice of District Collector should not be interfered but in this case, I am of the opinion that there is a serious negligence on the part of the revenue authorities who wrongly initiated the proceedings upon the death of Sarbrah lambardar. Thus, the appeal filed is hereby accepted and the impugned order dated 17.03.2020 passed by District Collector, Patiala is set aside and case is remanded back to the District Collector, Patiala with the directions to decide the matter afresh after conducting afresh munadi in the village on account of death of original lambardar Harjinder Singh and to initiate necessary action against the concerned revenue officials who gave the wrong reports and forwarded the report to the higher authorities.”

2.1 Learned Divisional Commissioner's order dated 03.10.2023 (Annexure P-4) has been further upheld by learned Financial Commissioner, vide order dated 25.07.2024 (Annexure P-6) passed in ROA-93-2023.

3. Aggrieved therefrom, the petitioner has filed the instant civil writ petition before this Court for the relief(s), as noticed hereinabove.

4. It is not disputed that Jaswant Singh (father of petitioner) was appointed only as a 'Sarbrah Lambardar' and he expired on 05.07.2012; whereas the original Lambardar was Harjinder Singh @ Rajinder Singh @ Jagmail Singh, who expired on 24.03.2018.

4.1 It appears that the authorities had wrongly taken Jaswant Singh to be the main Lambardar of village Duladi and initiated the proceedings for filling up the vacancy.

4.2 In my considered view, the learned Divisional Commissioner has rightly set aside the order dated 17.03.2020 (Annexure P-3), passed by learned Collector, who had wrongly appointed the petitioner as Lambardar in place of Jaswant Singh. The learned Divisional Commissioner's order has been further rightly upheld by learned Financial Commissioner by observing as under :-

“5. I have heard Ld. Counsel for both the appellant, gone through his submissions and perused the order of the courts below. The Divisional Commissioner, Patiala vide his order dated 03.10.2023 observed that earlier Harjinder Singh @ Rajinder Singh @ Jagmail Singh was appointed as lambardar of the village and Jaswant Singh was appointed as Sarbrah lambardar of Harjinder Singh and has never been appointed as lambardar of the village. The Divisional Commissioner further observed that there is no entry/rapat in the revenue record regarding appointment of Jawant

Singh as lambardar of the village. The actual lambardar of the village was Harjinder Singh @ Rajinder Singh @ Jagmail Singh who died on 24.03.2018 and Jaswant Singh who was the Sarbrah lambardar of Harjinder Singh @ Rajinder Singh @ Jagmail Singh has died on 05.07.2012 prior to the death of original lambardar Harjinder Singh @ Rajinder Singh @ Jagmail Singh. The lower revenue authorities wrongly initiated the lambardari proceedings on account of the death of Sarbrah lambardar Jaswant Singh is unjustified. From the aforesaid observations of the Divisional Commissioner, Patiala it is clear that the post of lambardar for which the process was initiated is not the actual post and it is the post of Sarbrah lambardar. Thus, the process becomes null and void. The Divisional Commissioner, Patiala vide his order dated 03.10.2023 recorded major perversity in the order of the District Collector which is required to be rectified. Therefore, the Divisional Commissioner rightly interfered in the order dated 17.03.2020 passed by the District Collector, Patiala.

6. Resultantly, I dismiss the present appeal and the order dated 03.10.2023 passed by the Commissioner, Patiala Division, Patiala is upheld. Copy of this order be communicated to the courts below. File be consigned to the record room.”

5. I find no illegality or perversity in the order dated 03.10.2023 (Annexure P-4), passed by learned Divisional Commissioner as well as order dated 25.07.2024 (Annexure P-6), passed by learned Financial Commissioner.

5.1 Further since the matter has been remanded to the learned Collector to conduct the proceedings regarding appointment of Lambardar of village Duladi afresh, by issuing fresh proclamation; no prejudice has been caused to petitioner and he would be entitled to apply

for the said post.

6. Considering the totality of circumstances, I do not find any merit in the instant civil writ petition and the same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

15.02.2025
sjks

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