2025:PHHC:013878

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11107-2021
Date of Decision: 29.01.2025

SUKHWINDER KAUR

.....PETITIONER

Vs.

FINANCIAL COMMISSIONER, PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present:- Mr. Naveen Batra, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

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HARSH BUNGER J. (ORAL)

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India seeking a direction in the nature of certiorari for setting aside the order dated 13.12.2016 (Annexure P-7), passed by the Commissioner, Jalandhar Division and order dated 08.02.2021 (Annexure P-8), passed by the learned Financial Commissioner, Punjab.

1.1 A further, prayer has been made for upholding the order dated 03.03.2015 (Annexure P-4) passed by the District Collector, Hoshiarpur, whereby, the petitioner was appointed as Lambardar of village Chipra.

2. Perusal of the order sheets would reveal that respondent No.4 was proceeded against *ex parte* on 01.08.2024.

3. Briefly, on demise of Sh. Satnam Singh, previous Lambardar of village Chipra, Tehsil and District Hoshiarpur, post of Lambardar fell vacated

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and proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the aforesaid vacancy, 10 applications were received (including the applications submitted by the petitioner and respondent No.4-Kuldeep Singh). Learned Collector, Hoshiarpur, vide order dated 03.03.2015 (Annexure P-4) appointed the petitioner as Lambardar of village Village Chipra, Tehsil and District Hoshiarpur. Feeling aggrieved against the aforesaid order, respondent No.4 (Kuldeep Singh) preferred an appeal before the learned Divisional Commissioner, Jalandhar, which came to be allowed vide order dated 13.12.2016 (Annexure P-7) 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. I find merit in the averment of appellant that Sukhwinder Kaur's husband is posted A.S.I. in Anandpur Sahib and she is putting up with her husband there only. The appellant is more deserving candidate since he has served 17 years 11 month in Army and received various medals. He served in J & K, Sri Lanka, Assam, two times in lagonai. He being more deserving. I therefore, accept the appeal, set aside the impugned orders dated 31/43/2015 and the case is remanded to District Collector, Hoshiarpur with the recommendation for appellant Kuldeep Singh, District Collector to hear afresh and the appellant Kuldeep Singh be appointed as Lambardar of the village.*

4. A revision petition (ROR-160-2017) filed by the petitioner challenging the aforesaid order dated 13.12.2016 (Annexure P-7) passed by the learned Commissioner was dismissed by the learned Financial

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Commissioner, Punjab, vide order dated 08.02.2021 (Annexure P-8). Hence, the present writ petition.

5. Learned counsel for the petitioner, while referring to the observation made by learned Commissioner, Jalandhar Division, Jalandhar, while allowing the appeal of respondent No.4 vide order dated 13.12.2016 (Annexure P-7), submits that once the learned Commissioner, Jalandhar Division, Jalandhar, had remanded the matter back to the District Collector, Hoshiapur, to hear the matter afresh, there was no occasion for the Commissioner, Jalandhar Division, Jalandhar, to recommend the name of respondent No.4-Kuldeep Singh to be appointed as Lambardar. It is submitted that learned Financial Commissioner, Punjab, has failed to consider and appreciate the said error and illegality in the order passed by the learned Commissioner. Accordingly, it is submitted that the impugned orders (Annexures P-7 and P-8) be set aside.

6. Learned State counsel is unable to controvert the submission made by the counsel for the petitioner and submits that indeed, once a matter was remanded to District Collector, Hoshiarpur, to hear the matter afresh, there was no occasion for the learned Commissioner, Jalandhar Division, Jalandhar, to recommend the name of respondent No.4 to be appointed as Lambardar and therefore, the impugned orders are unsustainable.

7. Heard.

8. Apparently, the petitioner was appointed as Lambardar by learned District Collector, Hoshiarpur, vide order dated 03.03.2015 (Annexure P-4), however, the same was set aside by the learned Commissioner, Jalandhar Division, Jalandhar, vide order dated 13.12.2016

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(Annexure P-7) and the matter was remanded to the District Collector, Hoshiarpur, to hear the matter afresh. However, while doing so, the learned Commissioner has also recommended that respondent No.4 be appointed as Lambardar. Since the matter was remanded to the District Collector, Hoshiarpur, for hearing the matter afresh, the decision for appointment of Lambardar should have been left for the District Collector and thus, no recommendation should have been made by the Commissioner, Jalandhar Division, Jalandhar, while remanding the matter.

9. Further, in para 5 of the order dated 08.02.2021 (Annexure P-8) passed by the learned Financial Commissioner, Punjab, although he took notice of the fact that the matter has been remanded to the District Collector for fresh decision, however, he has failed to take notice that while remanding the matter, learned Commissioner has virtually appointed respondent No.4 as Lambardar.

9.1. Since the learned District Collector's order appointing the petitioner as Lambardar is set aside primarily on the issue of non-availability of the petitioner to the villagers and to perform the duties of the post of Lambardar, it would be appropriate that the matter is considered by the District Collector, Hoshiarpur, afresh especially with regard to issue regarding availability of the candidate to perform the duties of Lambardar.

10. In view of the above, the present petition is partly allowed. The order dated 08.02.2021 (Annexure P-8) passed by the learned Financial Commissioner, Punjab and also the order dated 13.12.2016 (Annexure P-7) passed by learned Commissioner, only to the extent, whereby respondent No.4 was recommended for appointment as Lambardar, are set aside with a

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further direction to to the District Collector, Hoshiarpur, to decide the matter regarding appointment of Lambardar of village Chipra afresh especially taking into consideration the issue regarding availability of the candidate.

11. All pending application(s), if any, shall also stand closed.

January 29, 2025 **(HARSH BUNGER)**
Nisha-I **JUDGE**

Whether Speaking Yes/No
Whether reportable Yes/No

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