

116, 204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-15245-CWP-2024 in/and
CWP-17464-2022 (O/M)
Date of decision : 21.01.2025

Jasbir Singh alias Jasvir Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG Punjab.

Mr. Rajesh Bhateja, Advocate
for respondent No. 4.

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HARSH BUNGER, J. (ORAL)

CM-15245-CWP-2024

This is an application filed under Section 151 CPC for
placing on record reply on behalf of respondent No. 4 by way of affidavit.

For the reasons mentioned in the application, same is
allowed and reply by way of affidavit of respondent No. 4 (Sucha Singh)
is taken on record subject to all just exceptions.

Application is accordingly disposed of.

CWP-17464-2022 (O/M)

1. Short reply by way of an affidavit of Ms. Komal Mittal,
District Collector, Hoshiarpur on behalf of respondents No. 1 to 3, filed in
Court today, is taken on record subject to all just exceptions.

2. Petitioner (Jasbir Singh alias Jasvir 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 02.03.2020 (Annexure P-5), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner') and order dated 18.11.2016 (Annexure P-3), passed by learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner').

3. Briefly, on demise of Shri Joginder Singh, previous Lambardar (SC) of village Mirzapur, Tehsil and District Hoshiarpur, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation made in the village for filling up the aforesaid vacancy, 7 persons (including the petitioner and respondent No. 4-Sucha Singh) applied for the same. After considering the claims of the candidates, the Naib Tehsildar, Hoshiarpur, recommended the name of one of the candidates, namely, Shingara Singh and directed the candidates to appear before learned Tehsildar, Hoshiarpur, where only four candidates, namely, Shingara Singh, Harbhajan Singh, Jasbir Singh (petitioner) and Sucha Singh (respondent No. 4) appeared and remaining three candidates did not appear, as a result of which, they were proceeded against ex-parte. The Tehsildar, Hoshiarpur also recommended the name of Shingara Singh and directed the candidates to appear before learned Sub Divisional Magistrate, Hoshiarpur, where candidate Harbhajan Singh withdrew his candidature in favour of Sucha Singh and candidate Sohan Lal withdrew his candidature in favour of Shingara Singh. The learned Sub Divisional Magistrate, Hoshiarpur, after considering the claim of the candidates, recommended the name of Sucha Singh (respondent No. 4)

matter to learned Collector. In this way, only three candidates, namely, Sucha Singh (respondent No. 4), Shingara Singh and Jasbir Singh alias Jasvir Singh (petitioner) remained in the fray.

3.1 Learned Collector, after considering the relative merits/demerits of the candidates, found the petitioner (Jasbir Singh alias Jasvir Singh) as most suitable candidate and as such appointed him to the post of Lambardar (SC) of village Mirzapur, vide order dated 18.12.2014 (Annexure P-1).

3.2 Being aggrieved against aforesaid order dated 18.12.2014 (Annexure P-1), respondent No. 4 (Sucha Singh) filed an appeal (RA No. 3 of 2015) before the learned Divisional Commissioner, which came to be allowed, vide order dated 18.11.2016 (Annexure P-3) and matter was remanded to learned Collector to consider the recommended candidate Sucha Singh for Lambardari of village Mirzapur.

3.3 Feeling dis-satisfied with learned Divisional Commissioner's order dated 18.11.2016 (Annexure P-3), petitioner (Jasbir Singh alias Jasvir Singh) preferred an appeal (ROA 09 of 2017) before the learned Financial Commissioner, which came to be dismissed, vide order dated 02.03.2020 (Annexure P-5).

4. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

5. Learned counsel for petitioner submits that the revenue authorities below have erred in law and facts in passing the impugned orders without appreciating the settled law that in the matter of appointment of Lambardar, the choice of Collector is not to be lightly interfered unless there is any patent illegality or perversity. It is further

the learned Collector for considering the recommended candidate Sucha Singh for the post of Lambardar without considering the merits of the candidates. It is contended that the petitioner being more educated, younger in age, ex-serviceman and belonging to Scheduled Caste community, deserves to be appointed as Lambardar (SC). It is contended that the revenue authorities have wrongly and arbitrarily set aside the well reasoned order dated 18.12.2014 (Annexure P-1), passed by learned Collector. It is submitted that on the date of passing of order dated 18.11.2016 by learned Divisional Commissioner, a criminal case was pending against respondent No. 4, wherein he was convicted by learned JMIC, Hoshiarpur, vide judgement dated 21.09.2019 (Annexure P-9), for the offences punishable under Sections 323, 506, 34 IPC. With the aforesaid submissions, prayer has been made for setting aside the impugned orders passed by the revenue authorities below.

6. Per contra, learned counsel appearing for respondent No. 4 has opposed the submissions made on behalf of petitioner by submitting that the impugned orders passed by learned Divisional Commissioner and learned Financial Commissioner are well reasoned and justified, which do not call for any interference by this Court. It is submitted that the Collector has ignored the hereditary claim of respondent No. 4, being son of previous Lambardar. Accordingly, prayer has been made for dismissal of the instant civil writ petition.

7. I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.

8. Here, it would be apposite to state the relative merits of the candidates (as noticed by the learned Collector in its order

Particulars	Petitioner (Jasbir Singh alias Jasvir Singh)	Respondent No. 4 (Sucha Singh)
Age	44	50
Educational qualification	B.A. pass	10 th
Past profile	Ex-serviceman	Ex-serviceman
Recommended by	----	SDM, Hoshiarpur

8.1 A perusal of above extract findings returned by learned Collector would manifest that the petitioner has an edge over respondent No. 4 as he is younger in age and more educated than respondent No. 4. In ***Mahavir Singh Versus Khiali Ram and Others***, 2009(1) RCR (Civil) 757, Hon'ble the Supreme Court held that with regard to the appointment of a Lambardar in the State of Punjab, age of a candidate is a relevant factor.

8.2 As regards the hereditary claim, as pleaded by respondent No. 4, 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***.

8.3 In my considered view, petitioner is more suitable candidate for appointment as Lambardar (SC) and he was rightly appointed by learned Collector, vide order dated 18.12.2014 (Annexure P-1).

8.4 In the case of ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab***, 2016(1) RCR (Civil) 273; it was held by the Division Bench of this Court that choice of the District Collector cannot be lightly set aside, even if two views are possible, unless there is any patent illegality or perversity therein. It is also well established that the learned Collector is the main authority for appointment of the Lambardar. It is the Collector, who not only

appreciates the antecedents of all the candidates in the fray, but also personally interacts with them.

9. In view of the above discussion, I am of the considered view that learned Divisional Commissioner as well as learned Financial Commissioner have erred in law and facts in setting aside learned Collector's order dated 18.12.2014 (Annexure P-1).

10. Resultantly, the instant writ petition is allowed and the impugned order dated 18.11.2016 (Annexure P-3), passed by learned Divisional Commissioner and order dated 02.03.2020 (Annexure P-5), passed by learned Financial Commissioner are set aside and the order dated 18.12.2014 (Annexure P-1) passed by learned Collector, appointing the petitioner as Lambardar of village Mirzapur, Tehsil and District Hoshiarpur, is maintained.

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

(HARSH BUNGER)
JUDGE

21.01.2025
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No