

2025:PHHC:041929



204

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

**CWP-19530-2021
Date of Decision: 26.03.2025**

Paramjit Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Umesh Kumar, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG, Punjab.

Mr. Chanakya Batta, Advocate
for respondent No.4.

HARSH BUNGER J. (ORAL)

Petitioner (Paramjit Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 28.03.2018 (Annexure P-3) passed by the learned Commissioner, Jalandhar Division, Jalandhar and order dated 05.07.2021 (Annexure P-4) passed by the learned Financial Commissioner (Appeals), Punjab.

2. Briefly, on account of demise of Sh. Pritam Chand, previous Lambardar (Scheduled Caste) of Village Lassuri, Tehsil Shahkot, District Jalandhar; proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the aforesaid vacancy, nine applications (including the one submitted by the petitioner and another by respondent No.4) were received.

2.1 The learned Tehsildar, Shahkot as well as learned Sub Divisional Magistrate, Shahkot recommended the name of present petitioner for appointment to the post of Lambardar (Scheduled Caste) and placed the matter before the learned Collector, Jalandhar.

2.2 The learned Collector, Jalandhar, after considering the relative merits and demerits of the candidates, appointed the petitioner (Paramjit Singh) as Lambardar (Scheduled Caste) of Village Lassuri, vide order dated 03.11.2015 (Annexure P-1).

2.3 Feeling aggrieved against the aforesaid order dated 03.11.2015 (Annexure P-1), respondent No.4 (Jaswinder Singh) preferred an appeal before the learned Divisional Commissioner, Jalandhar, which was allowed vide order dated 28.03.2018 (Annexure P-3) and respondent No.4 (Jaswinder Singh) was appointed as Lambardar of Village Lassuri.

2.4 Being dissatisfied with the aforesaid order dated 28.03.2018 (Annexure P-3), petitioner (Paramjit Singh) preferred a revision petition (ROA No.52 of 2018) before the learned Financial Commissioner (Appeals), Punjab, which came to be dismissed vide order dated 05.07.2021 (Annexure P-4).

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

hereinabove.

4. Heard.

5. In the instant case, petitioner (Paramjit Singh) was appointed as Lambardar (Scheduled Caste) of Village Lassuri by the learned Collector, Jalandhar, vide order dated 03.11.2015 (Annexure P-1), by observing as under:-

“ - x - x -

After considering the arguments of the candidates and their counsel and after perusal of the documents available on the file. Candidate Sh. Harjinder Singh is having electricity shop at Shahkot. Candidate Jaswinder Singh is working at Dana Mandi, therefore, both candidates are not available to the villager when they are required by the villager. Candidate Sukhwinder Singh is less educated than Paramjit Singh. Candidate Paramjit Singh at present is a Panch and also well conversant with Lambardari work. This candidate seems more wise in talking term than the other candidates and he also aware about the Lambardari duties. Therefore, I consider Paramjit Singh more meritorious candidate for the post of Lambardar and I also agreed with the recommendation of Tehsildar and SDM, Shahkot. Therefore, I appoint Sh. Paramjit Singh son of Karma as SC Lambardar of village Lassuri Tehsil Shahkot District Jalandhar. After compliance file be consigned to record room.”

6. The aforesaid order dated dated 03.11.2015 (Annexure P-1) passed by the learned Collector, Jalandhar, was set aside by the learned Divisional Commissioner, Jalandhar, vide order dated 28.03.2018 (Annexure P-3), by observing that the petitioner (Paramjit Singh) was running a medicine clinic/shop, therefore, he would be unable to attend the work of Lambardari all the time; and accordingly, respondent No.4 (Jaswinder Singh) was appointed as Lambardar of Village Lassuri. The said

order dated 28.03.2018 (Annexure P-3) was further upheld by the learned Financial Commissioner (Appeals), Punjab, vide order dated 05.07.2021 (Annexure P-4), thereby affirming the reasoning rendered by the learned Divisional Commissioner, Jalandhar and also observing that some inhabitants of the Village had made complaint(s) regarding illegal possession of the petitioner (Paramjit Singh) over the Panchayat land.

6.1 As regards petitioner's illegal possession over the Panchayat Land is concerned; the petitioner has placed on record a Certificate (Annexure P-8) issued by the Gram Panchayat, Village Lassuri, Tehsil Shahkot, District Jalandhar, stating that he is not having any illegal possession on any plot or land. Neither the said Certificate (Annexure P-8) has been disputed nor any material has been placed on record by respondent No.4 to substantiate the allegations of illegal possession over Panchayat Land by the petitioner. In the absence of any material to indicate petitioner's illegal possession over any Panchayat Land, the said plea raised against him is liable to be rejected.

7. Further, as regards the observations made by the Divisional Commissioner, Jalandhar as well as the Financial Commissioner (Appeals), Punjab, that petitioner is running a chemist shop/clinic; the petitioner, in paragraph No.10(ii) of the instant writ petition, has made a categorical submission that he is not running any such shop. Said paragraph No.10(ii) reads as under:-

“10(ii) That the learned Commissioner without taking into consideration that respondent No.4 has leveled false allegation that the petitioner is running medicine clinic/shop and thus not available to the villagers. It is necessary to mention here that petitioner is not running any medicine shop etc. and he is always available in the village and even to prove the

allegations against the petitioner that petitioner is running medicine shop respondent has not produced even a single iota of evidence meaning thereby the learned Commissioner has passed totally non speaking order, without applying its judicious mind.”

7.1 In response to the aforesaid paragraph No.10(ii) of the writ petition, respondent No.4 has made a vague denial in his written statement dated 31.10.2023, by stating as under:-

“10. That the contents of para No.10 alongwith sub para No.(i) to (viii) of Civil Writ Petition are wrong and denied.”

7.2 The Hon’ble Supreme Court in **“Jaspal Kaur Cheema and another vs. M/s Industrial Trade Links and others”, 2017 AIR 3995**, has held that a vague denial amounts to admission. Relevant extract thereof reads as under:-

“8. In terms of Order 8, Rule 3 of the Code of Civil Procedure, 1908 (for short ‘the Code’), a defendant is required to deny or dispute the statements made in the plaint categorically, as evasive denial would amount to an admission of the allegation made in the plaint in terms of Order 8, Rule 5 of the Code. In other words, the written statement must specifically deal with each of the allegations of fact made in the plaint. The failure to make specific denial amounts to an admission. This position is clear from the decisions of this Court in Badat and Company v. East India Trading Company (1964) 4 SCR 19, Sushil Kumar v. Rakesh Kumar 2003(4) RCR (Civil) 753 : (2003) 8 SCC 673, and M. Venkataramana Hebbar (dead by LRs) v. M. Rajagopal Hebbar 2007(2) RCR (Civil) 404 : (2007) 6 SCC 401.”

7.3 Considering the vague denial to the plea of petitioner that he is not running any chemist shop/clinic and in the absence of any material/document to show that he is running a chemist shop/clinic; the said plea raised against the petitioner is also rejected.

8. In my view, order dated 03.11.2015 (Annexure P-1) passed by the learned Collector, Jalandhar, appointing the petitioner as Lambardar (Scheduled Caste), is well reasoned and justified, however, the same was wrongly set aside by the learned Divisional Commissioner, Jalandhar, merely on the *ipse dixit* of respondent No.4 (Jaswinder Singh), which is untenable in law. Even the learned Financial Commissioner (Appeals), Punjab has erred in passing order dated 05.07.2021 (Annexure P-4).

8.1 Further, in “*Kuldip Singh vs. Financial Commissioner, Appeals-II, Punjab*”, 2016(1) RCR (Civil) 273, a Division Bench of this Court has held that in the matter of appointment of Lambardar, the choice of learned Collector is not to be lightly interfered with, even if two views are possible.

9. In view of the aforementioned facts and circumstances, the instant writ petition is allowed. Orders dated 28.03.2018 (Annexure P-3) and 05.07.2021 (Annexure P-4) passed by the learned Divisional Commissioner, Jalandhar and the learned Financial Commissioner (Appeals), Punjab, respectively, are set aside and order dated 03.11.2015 (Annexure P-1) passed by learned Collector, Jalandhar, appointing the petitioner as Lambardar (Scheduled Caste) of Village Lassuri, Tehsil Shahkot, District Jalandhar; is upheld.

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

26.03.2025

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No