

2025 PHHC:002380



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

**CWP-24174-2023
Date of Decision: 08.01.2025**

Avtar 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. Nirmaljit Singh Diwana, Senior DAG, Punjab.

Ms. Gurnam Kaur Turka, Advocate
for respondent No.4.

HARSH BUNGER J. (ORAL)

Petitioner (Avtar 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 28.11.2018 (Annexure P-5) passed by the learned District Collector, Fatehgarh Sahib; order dated 09.09.2020 (Annexure P-6) passed by the learned Commissioner, Patiala Division, Patiala; and order dated 01.12.2022 (Annexure P-8) passed by the learned Financial Commissioner (Appeals), Punjab.

2. Learned counsel for respondent No.4, at the outset, submits that

she does not intend to file reply to the instant writ petition and the matter may be heard on merits. Accordingly, with the consent of learned counsel for the parties, the matter is heard.

3. Briefly, on account of demise of Sh. Sukhwinder Singh, previous Lambardar (General Category) of Village Chanarthal Kalan, Tehsil and District Fatehgarh Sahib; proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the aforesaid vacancy, five applications (including the one submitted by the petitioner and another by respondent No.4) were received.

3.1 The learned Naib Tehsildar, Fatehgarh Sahib recommended the name of respondent No.4 (Harjeet Singh), whereas, the learned Sub Divisional Magistrate, Fatehgarh Sahib recommended the name of petitioner (Avtar Singh), for appointment to the post of Lambardar (General Category).

3.2 It appears that the learned District Collector, Fatehgarh Sahib, after considering the relative merits and demerits of the candidates, appointed petitioner (Avtar Singh) as Lambardar (General Category) of Village Chanarthal Kalan, vide order dated 18.05.2012 (Annexure P-1).

3.3 Feeling aggrieved against the aforesaid order (Annexure P-1), respondent No.4 preferred an appeal before the learned Divisional Commissioner, Patiala, which was allowed vide order dated 12.11.2014 (Annexure P-3) and respondent No.4 (Harjeet Singh) was ordered to be appointed as Lambardar (General Category) of Village Chanarthal Kalan.

3.4 Being dissatisfied against the aforesaid order (Annexure P-3), petitioner preferred a revision petition (ROR No.232 of 2015) before the learned Financial Commissioner (Appeals), Punjab, which was allowed vide order dated 19.01.2018 (Annexure P-4) and the matter was remanded to the

District Collector, Fatehgarh Sahib, by observing as under:-

“ - x - x -

5. I have considered arguments and perused orders of the lower courts and gone through the submissions of both the parties. The two issues mainly educational qualification and land ownership of candidates has not been conclusively settled in the order of Commissioner and District Collector. The order passed by the Collector and the Commissioner are not clear regarding these two issues. Therefore, I set aside the orders of Commissioner, Patiala Division dated 12.11.2014 as well as District Collector, Fatehgarh Sahib dated 18.05.2012 and remand the case to District Collector, Fatehgarh Sahib to decide the matter afresh by setting these two issues conclusively.”

3.5 On remand, the learned District Collector, Fatehgarh Sahib, instead of complying with the aforesaid Financial Commissioner's order (Annexure P-4), proceeded to pass order dated 28.11.2018 (Annexure P-5), thereby ordering fresh proclamation in Village Chanarthal Kalan, Tehsil and District Fatehgarh Sahib, in order to fill up the vacant post of Lambardar (General Category).

3.6 Feeling aggrieved against the aforesaid order (Annexure P-5), petitioner preferred an appeal before the learned Divisional Commissioner, Patiala, which same was dismissed vide order dated 09.09.2020 (Annexure P-6). Thereafter, petitioner preferred a revision petition (ROR No.563 of 2020) before the learned Financial Commissioner (Appeals), Punjab, however, the same was also dismissed vide order dated 01.12.2022 (Annexure P-8).

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

5. Learned counsel for the petitioner, *inter alia*, submits that the learned District Collector, Fatehgarh Sahib has erred in law and fact in passing order dated 28.11.2018 (Annexure P-5) as he had failed to comply with order dated 19.01.2018 (Annexure P-4) passed by the learned Financial Commissioner (Appeals), Punjab.

6. The aforesaid factual position is not disputed by learned counsel for respondent No.4 and learned State counsel has also not been able to controvert to the same.

6.1 Further, during the course of arguments, learned counsel for respondent No.4 has stated that she has no objection in case the impugned orders are set aside and the matter is remanded to the learned District Collector, Fatehgarh Sahib, for fresh decision in terms of order dated 19.01.2018 (Annexure P-4) passed by the learned Financial Commissioner (Appeals), Punjab.

7. I have heard learned counsel for the parties.

8. Keeping in view the aforesaid submissions made by learned counsel for the parties, impugned orders dated 28.11.2018 (Annexure P-5), 09.09.2020 (Annexure P-6) and 01.12.2022 (Annexure P-8) are set aside and the matter is remanded to the District Collector, Fatehgarh Sahib, for fresh decision as regards the appointment of Lambardar (General Category) of Village Chanarthal Kalan, Tehsil and District Fatehgarh Sahib, after giving due opportunity of hearing to all the concerned parties.

8.1 Since the matter is pending for the last more than fourteen years, the District Collector, Fatehgarh Sahib is directed to make earnest endeavour to decide the same expeditiously and preferably within a period of six months from the date of appearance of the parties before him.

8.2 The parties are directed to appear either personally or through

their respective counsel(s) before the District Collector, Fatehgarh Sahib on 31.01.2025.

- 9. The instant writ petition is disposed of in the aforestated terms.
- 10. All pending application(s), if any, shall also stand closed.

08.01.2025
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No