

132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-33895-2024 (O/M)

Date of decision : 13.02.2025

Sandeep Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. C.M. Munjal, Advocate
for the petitioner.

Mr. Umesh Kumar Kanwar, Advocate
for caveator-respondent No. 4.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Sandeep 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 16.09.2024 (Annexure P-3), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner') and order dated 29.08.2024 (Annexure P-2), passed by learned Commissioner, Ferozepur Division, Ferozepur (in short 'Divisional Commissioner').

2. Notice of motion.

2.1 At this stage, Mr. Umesh Kumar Kanwar, Advocate, who is appearing on behalf of caveator-respondent No. 4, accepts notice on behalf of respondent No. 4. Caveat discharged. With the consent of learned counsel for parties, arguments on merits of the case have been heard.

3. Briefly, on demise of Shri Sher Singh, previous Lambardar of village Sukhera Bodla, Tehsil Jalalabad, District Fazilka, proceedings were initiated for filling up the aforesaid vacancy.

3.1 The Tehsildar, Jalalabad as well as Sub Divisional Magistrate, Jalalabad, recommended the candidature of respondent No. 4 (Iqbal Singh) and forwarded the matter to learned Collector, Fazilka (in short 'Collector').

3.2 Learned Collector, vide order dated 03.07.2024 (Annexure P-1), appointed the petitioner (Sandeep Singh) as Lambardar of village Sukhera Bodla.

3.3 The learned Collector's order dated 03.07.2024 (Annexure P-1) was challenged by respondent No. 4 (Iqbal Singh) by filing an appeal before learned Divisional Commissioner, which came to allowed, vide order dated 29.08.2024 (Annexure P-2), whereby respondent No. 4 (Iqbal Singh) was appointed as Lambardar of village Sukhera Bodla.

3.4 Feeling aggrieved against learned Divisional Commissioner's order dated 29.08.2024 (Annexure P-2), the present petitioner (Sandeep Singh) preferred an appeal before learned Financial Commissioner, however, the same was dismissed, vide order dated 16.09.2024 (Annexure P-3). Hence, the present civil writ petition.

4. Here, it would be apposite to refer to the relative merits of the petitioner as well as respondent No. 4, as noticed by learned Collector, which is as under :-

Particulars	Petitioner (Sandeep Singh)	Respondent No. 4 (Iqbal Singh)
Age	38	54
Educational qualification	12 th pass	12 th pass (but no certificate attached) Note : Before learned Divisional Commissioner and learned Financial Commissioner, respondent No. 4 claimed to be 10 th pass.
Knowledge about languages	Punjabi Hindi and English	Punjabi Hindi and English
Land owned	94 Kanals	110 Kanals
Criminal background	Nil as per police records	---
Defaulter	Nil	Nil
Other qualifications	President of Local Gurdwara; planted so many trees in the Panchayat land; conducted seminars for stopping fire on paddy straw; seminar for keeping cleanliness and on environment and also on drug free Punjab.	Son of deceased Lambardar
Recommended by	---	Tehsildar, Jalalabad as well as SDM, Jalalabad

5. After taking note of the aforesaid merits of the candidates, the learned Collector appointed the petitioner as Lambardar, by observing as under :-

“ Out of merits and demerits of the candidates only Sandeep Singh candidate is only eligible to become Lambardar of the village. This caniddate is young man and has passed 12th class. He has engaged with Public Welfare programs like drugs free seminars, awaking from fire to paddy straws is good gesture. This candidate is not a defaulter of any institution and is having neat and clean image. Therefore, keeping in view the facts and not agreeing with the Lower Revenue Officials reports, I found Sandeep Singh son of Kehar Singh to be fit for the post of Lambardar of village Sukhera Bodla, on account of vacancy arisen due to death of Sher Singh deceased Lambardar and he is appointed as Lambardar.”

5.1 The learned Collector's order has been set aside by learned Divisional Commissioner, vide order dated 29.08.2024 (Annexure P-2) primarily on the ground that the name of respondent No. 4 (Iqbal Singh)

was appointed as Sarbarah Lambardar. The learned Divisional Commissioner's order has been further upheld by learned Financial Commissioner.

5.2 In my considered view, the learned Divisional Commissioner and learned Financial Commissioner have erred in law in setting aside the learned Collector's order appointing the petitioner as Lambardar, in view of well settled position in law 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, unless there is any patent illegality or perversity therein. Further, the recommendation of the lower revenue officials are not binding on learned Collector. Moreover, giving preference to a person who has remained as Sarbarah Lambardar actually amounts to giving preference to hereditary claim, which has been held to be ultra vires the Article 14 of Constitution of India, by a Division Bench of this Court in ***Karnail Singh Versus State of Haryana etc., 1973 PLJ 676***. The aforesaid view is supported by a Division Bench judgment of this Court in ***Ashok Kumar Versus State of Haryana, 2012 (68) RCR (Civil) 198***. It is also observed that the learned Divisional Commissioner has not pointed out any illegality or perversity in the order passed by learned Collector nor the same has been done by learned Financial Commissioner as well. Apparently, petitioner is younger in age and more educated than respondent No. 4 and is also involved in social activities.

5.3 In my view, petitioner was rightly appointed as Lambardar of village Sukhera Bodla by learned Collector.

6. In the light of above discussion, the instant civil writ petition is allowed. Accordingly, the order dated 29.08.2024 (Annexure P-2),

passed by learned Divisional Commissioner and order dated 16.09.2024 (Annexure P-3), passed by learned Financial Commissioner are set aside and order dated 03.07.2024 (Annexure P-1), passed by learned Collector, appointing the petitioner as Lambardar of village Sukhera Bodla, is maintained.

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

(HARSH BUNGER)
JUDGE

13.02.2025
sjks

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