

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10692-2023 (O/M)

Date of decision : 17.02.2026

Kuldeep Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. B.S. Seemar, Advocate
for the petitioner.

Mr. Navneet Singh, Additional AG Punjab.

Mr. Rai Singh Chauhan, Mr. Rohit Sapehiya, Advocates
for respondent No. 4.

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HARSH BUNGER, J.

1. Prayer in the instant civil writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside the order dated 04.07.2019 (Annexure P-3), passed by learned Commissioner, Ferozepur Division, Ferozepur (in short 'Divisional Commissioner'), whereby he had set aside the appointment of petitioner as Lambardar of village Ratta Khera Baja Kotwal, Tehsil and District Ferozepur, made by learned Collector, Ferozepur (in short 'Collector'), vide order dated 19.04.2017 (Annexure P-1) and further remanded the matter to learned Collector.

1.1 A further prayer has been made for setting aside order dated 21.11.2022 (Annexure P-6), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner'),

whereby appeal (ROA-35-2019), preferred by petitioner (Kuldeep Singh) against learned Divisional Commissioner's order dated 04.07.2019 (Annexure P-3), has been dismissed.

2. Briefly, on demise of Shri Mohinder Singh, previous Lambardar of village Ratta Khera Baja Kotwal, Tehsil and District Ferozepur, proceedings were initiated for filling up the aforesaid vacancy, wherein petitioner (Kuldeep Singh) and respondent No. 4 (Partap Singh) were also the candidates.

2.1 Naib Tehsildar, Zira as well as Sub Divisional Magistrate, Ferozepur, recommended the candidature of petitioner (Kuldeep Singh) for appointment to the aforesaid vacancy and placed the matter before learned Collector.

2.2 Learned Collector, vide order dated 19.04.2017 (Annexure P-1), appointed the petitioner (Kuldeep Singh) as Lambardar of village Ratta Khera Baja Kotwal.

2.3 Feeling aggrieved against learned Collector's order dated 19.04.2017 (Annexure P-1), respondent No. 4 (Partap Singh) preferred an appeal before learned Divisional Commissioner, which came to be allowed, vide order dated 04.07.2019 (Annexure P-3), whereby learned Collector's order was set aside and the matter was remanded to learned Collector for deciding the same by taking into consideration the pendency of criminal cases and other charges against the petitioner as well as respondent No. 4 and also taking into consideration the work experience of respondent No. 4 as Sarbarah Lambardar.

2.4 Being dis-satisfied, petitioner (Kuldeep Singh) challenged learned Divisional Commissioner's order by filing an appeal

(ROA-35-2019) before learned Financial Commissioner, which has been dismissed, vide order dated 21.11.2022 (Annexure P-6).

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

4. Heard.

5. Here, it would be apposite to refer to relative merits of petitioner and respondent No. 4 (as noticed by learned Collector), which are as under :-

	Petitioner (Kuldeep Singh)	Respondent No. 4 (Partap Singh)
Age	29	33
Educational qualification	BA pass	10 th pass
Landholding	3 ½ acre	2 Acre
Recommended by	Naib Tehsildar, Zira and Sub Divisional Magistrate, Ferozepur	---

5.1 A bare perusal of above extracted chart would show that petitioner has an edge over respondent No. 4 inasmuch as that petitioner is younger in age and more educated than respondent No. 4 and even the candidature of petitioner was recommended by Naib Tehsildar, Zira and Sub Divisional Magistrate, Ferozepur.

5.2 Learned Collector, after considering relative merits and demerits of candidates, appointed the petitioner (Kuldeep Singh) as Lambardar of village Ratta Khera Baja Kotwal, vide order dated 19.04.2017 (Annexure P-1), by observing as under :-

“The pleadings put forth by the learned counsel were taken into consideration. Record was perused. From the perusal of record it is revealed that Numberdar Mohinder Singh who had been died on 14.08.2014 he had appointed Shri Partap Singh as Sarbrah Numberdar during his life time. But the candidate Partap Singh Sarbrah Numberdar even after the death of Mohinder Singh has attested a Deed No. 3016 dated 04.10.2016, which he could not attest. Hence, by doing so and while remaining on a responsible post he has misused his powers. Hence, appointing such candidate as candidate on the responsible post of Numberdar is not proper, because the post of Numberdar is a responsible post. The educational qualification of other candidate Kuldeep Singh compared to him is BA Pass. The educational qualification of Partap Singh is 10th pass. The candidate Kuldeep Singh is more educated than the other candidate Partap Singh and the land owned by him 3½ acre is also more than the other candidate Partap Singh. Candidate Kuldeep Singh has come present in the court today and he was asked many questions regarding Numberdari and consequently he replied correctly. Candidate Kuldeep Singh also appears to be quite healthy and from his conversation also it is proved that this candidate is quite intelligent and understandable. Thus, candidate Kuldeep Singh is treated as more suitable candidate. Hence, candidate Kuldeep Singh is appointed as permanent Numberdar of village Ratta Khara Baja Kotwal Tehsil and District Ferozepur in the place of earlier Numberdar Mohinder Singh. Order Pronounced. File after due completion and compliance be consigned to record room.”

5.3 A perusal of above extracted finding returned by learned Collector would show that the conduct of respondent No. 4-Partap Singh was not above board inasmuch as that although he was appointed as

Sarbarah Lambardar during the lifetime of previous Lambardar (Mohinder Singh); however, even after death of previous Lambardar (Mohinder Singh), respondent No. 4 (Partap Singh) continued attesting documents as Sarbarah Lambardar and one such document was deed No. 3016, dated 04.10.2016.

6. Evidently, learned Collector's order dated 19.04.2017 (Annexure P-1), appointing petitioner as Lambardar, was set aside by learned Divisional Commissioner, vide order dated 04.07.2019 (Annexure P-3) by observing as under :-

“I have considered the arguments and perused the record of the case. It is a fact that appellant is low in merit as regards educational qualification and land holding but he was appointed as Sarbrah Lambardar by the District Collector and worked as such for a period of about 2 years and has got experience of working as Lambardar. But the working experience of the appellant has not been given weightage by the District Collector. The appellant was ignored by the District Collector merely on the ground that after the death of Mohinder Singh Lambardar on 14.8.2014 he identified the parties in sale deed No.3016 dated 4.10.2016 whereas he ceased to be Sarbrah Lambardar on the death of Mohinder Singh on 14.8.2014. But the plea of the appellant is that he attested the said sale deed with bona fide intention and not with mala fide intention. A rapat No. 30 dated 3.10.2015 under section 447/506/34 IPC was registered against the respondent Kuldeep Singh and other persons on the charge of taking forcible possession. There is also allegation against the respondent Kuldeep Singh son of Jugraj Singh regarding theft of bricks of passage and inquiry is pending with BDPO, Ghall khurd which badly reflect the conduct of the respondent. But while passing the impugned order, the District Collector has not taken into

consideration the charges against the respondent. The District Collector has also not taken into consideration the registration of case FIR No.165 dated 11.10.2014 under section 323/324/340 IPC against the appellant. Therefore, I accept the appeal set aside the impugned order and remand the case to District Collector, Ferozepur after hearing both the parties and taking into consideration the pendency of criminal cases and other charges against the appellant and respondent and also taken into consideration the working experience of the appellant as sarbrah Lambardar. The parties have been directed to appear before the District Collector.”

6.1 A perusal of above extracted observations made by learned Divisional Commissioner would show that petitioner was found more meritorious in so far as educational qualification and landholding are concerned. However, the conduct of respondent No. 4 in attesting deed No. 3016, dated 04.10.2016 after death of previous Lambardar (Mohinder Singh) and that too in the capacity of Sarbarah Lambardar has been although noticed; but the same has been brushed aside by merely observing that respondent No. 4 had attested the said deed with a bonafide intention. In my view, the said observation by learned Divisional Commissioner is without any basis, especially in the attending circumstances where previous Lambardar (Mohinder Singh) has expired on 14.08.2014 whereas respondent No. 4 attested deed No. 3016 on 04.10.2016 in his capacity of Sarbarah Lambardar. It is not disputed that Sarbarah Lambardar can act only during the lifetime of original Lambardar.

7. It is further borne out from the above extracted observations made by learned Divisional Commissioner that he had remanded the

matter by noticing that there was a rapat No. 30, dated 03.10.2015,

registered against petitioner (Kuldeep Singh) and other persons on the charge of taking forcible possession and there was allegation of theft of bricks of passage against petitioner (Kuldeep Singh), which were required to be considered.

7.1 I have gone through the order passed by learned Divisional Commissioner and as regards the aforesaid two grounds, which weighed with learned Divisional Commissioner to remand the matter, it is noticed that in so far as rapat No. 30, dated 03.10.2015 regarding charge of taking forcible possession by petitioner (Kuldeep Singh) is concerned, it has been explained by petitioner that it was a cross-case, which was filed against petitioner and his father, whereas main case was FIR No. 177 dated 03.10.2015, which was got lodged by father of petitioner. It is stated that said FIR No. 177 as well as rapat No. 30 were recommended for cancellation by police on 21.07.2016 (Annexure P-9) and cancellation reports were subsequently accepted by learned Judicial Magistrate 1st Class, Ferozepur, vide order dated 24.09.2019 (Annexure P-10).

7.2 As regards allegation of theft of bricks of passage is concerned, petitioner has placed on record copy of report dated 27.01.2020 (Annexure P-11), the relevant extract of which reads as under :-

“In connection with the letter under reference on the above cited subject for the disposal of the complaint, the Panchayat Officer and Samiti Patwari of this office inspected the site of aforesaid Rasta and the statements of the owners of the adjoining fields Gurmeet Singh alias Sarwan Singh son of Joginder Singh and Bhupinder Singh son of Hardial Singh were taken. The Rasta which is at the spot it leads from Canal bank to the house of Jugraj Singh son of Mangal Singh and Kuldeep Singh son of Jugraj Singh

only. It has been found at the spot no bricks have been taken out from this passage and passage is made pucca. Some bricks were taken out by Kuldeep Singh and Jagraj Singh for putting pipe to their fields, which after putting the pipe these bricks have been laid as before. Hence, it is requested that no loss has been caused to the passage by aforesaid persons nor any bricks have been taken out. Hence, it is recommended to consign the above application to the record room.”

7.3 A perusal of above extracted report (Annexure P-11) would show that no bricks were found to have been taken from the passage and no loss has been caused to the passage by the petitioner and his father Jugraj Singh.

8. That apart, even a case FIR No. 165, dated 11.10.2014 is stated to have been registered against respondent No. 4 (Partap Singh).

9. Considering the totality of circumstances, I am of considered view that petitioner has better merits than respondent No. 4 and was rightly appointed as Lambardar of village Ratta Khera Baja Kotwal by learned Collector, vide order dated 19.04.2017 (Annexure P-1); however, said appointment of petitioner as Lambardar was wrongly set aside by learned Divisional Commissioner without taking into consideration well settled position in law that in the matter of appointment of a Lambardar, the choice of learned Collector cannot be lightly interfered, even if two views are possible, unless there is any patent illegality or perversity therein. Even the learned Financial Commissioner has erred in affirming order passed by learned Divisional Commissioner.

10. In view of above, orders dated 04.07.2019 (Annexure P-3) and 21.11.2022 (Annexure P-6), passed by learned Divisional Commissioner and learned Financial Commissioner, respectively, are set

aside and order dated 19.04.2017 (Annexure P-1), passed by learned Collector, appointing petitioner as Lambardar of village Ratta Khera Baja Kotwal, is hereby maintained.

11. The instant civil writ petition is accordingly, allowed and disposed of in aforesaid terms.

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

(HARSH BUNGER)
JUDGE

17.02.2026
sjks

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