



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

203

LPA-236-2017 (O&amp;M)

Date of Decision: 04.02.2026

KULWANT SINGH

...Appellant

Versus

RANDEEP SINGH AND ORS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI  
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Birinder Singh Khehar, Advocate, for the appellant.  
Mr. Sherry K. Singla, Advocate, for respondent No.1.  
Mr. Yatin Bungar, AAG, Punjab.

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**HARSIMRAN SINGH SETHI, J. (ORAL)**

1. In the present appeal, the challenge is to the order dated 08.12.2016 passed by the learned Single Judge in CWP-25117-2014, by which the writ petition filed by respondent No.1-Randeep Singh challenging the order dated 01.10.2014 (Annexure P-5) passed by the Financial Commissioner, Punjab, so as to remand the case back to the Collector for deciding afresh the appointment of the Lambardar in the village Saparheri, Tehsil Samana, has been set aside and respondent No.1 has been directed to be appointed as a Lambardar.

2. Learned counsel appearing on behalf of the appellant submits that the District Collector, Patiala, after due consideration, passed an order appointing appellant-Kulwant Singh as a Lambardar vide order dated 27.09.2011, copy of which has been appended as Annexure P-2. The said appointment was challenged by respondent No.1-Randeep Singh before the Divisional Commissioner, Patiala, whereby the appointment of the appellant was set aside vide order dated 18.09.2012 (Annexure P-4) and respondent



No.1-Randeep Singh was appointed as Lambardar, against which order, an appeal was preferred by the appellant before the Financial Commissioner, Punjab. After noticing all the facts, the Financial Commissioner found that a fresh consideration is required to be undertaken for the appointment of Lambardar at the hands of Collector keeping in view the allegations and counter-allegations as well as a report received from the Sub Divisional Magistrate, which was also taken into consideration and therefore, the case was remanded back to the Collector.

2.1 The said order of remand was challenged by respondent No.1 before the learned Single Judge and the learned Single Judge vide impugned order dated 08.12.2016 has set aside the order of the Financial Commissioner, Punjab, so as to declare respondent No.1-Randeep Singh as Lambardar by upholding the order of the Divisional Commissioner, Patiala.

2.2. Learned counsel for the appellant submits that once the matter was remanded back for fresh adjudication by the Financial Commissioner, the learned Single Judge was only required to ascertain whether the said order was valid or not, whereas, the learned Single Judge upheld the order of the Divisional Commissioner, Patiala, wherein the appointment of the appellant was set aside. Learned counsel for the appellant further submits that the matter needs to be remanded back for fresh appointment of the Lambardar, especially when both the appellant as well as respondent No.1, are claiming themselves to be the Lambardar as per the order passed by the different revenue authorities.

3. Learned counsel appearing on behalf of respondent No.1 submits that there was a forged certificate submitted by the appellant qua



his passing of 7<sup>th</sup> class examination. This fact was noticed by the learned Single Judge and held that such candidate cannot be treated as a Lambardar and therefore, appointed respondent No.1-Randeep Singh as Lambardar, which order is perfectly valid.

4. Controverting the said submission, learned counsel for the appellant submits that after the appointment of the appellant as Lambardar by the District Collector, Patiala, an *ex parte* enquiry report was secured and that too, without associating the appellant in any manner with regard to the alleged forgery of the document and the said document has been relied upon by the learned Single Judge and that too, without giving any opportunity to rebut the same.

5. We have heard the learned counsel for the parties and have gone through the record of the case with their able assistance.

6. The District Collector, Patiala, after adjudicating the relevant claims, appointed the appellant as a Lambardar, which appointment was set aside by the Divisional Commissioner, Patiala and respondent No.1-Randeep Singh was appointed as Lambardar. Thereafter, in the appeal preferred by the appellant, the Financial Commissioner, Punjab was of the view that a fresh consideration needs to be undertaken and therefore, remanded the case back to the District Collector for fresh adjudication of the rival claims raised by the appellant as well as respondent No.1.

7. The learned Single Judge has set aside the said order of the Financial Commissioner only on the ground that there was a false document qua his passing of 7<sup>th</sup> class examination submitted by the appellant. It may be noticed that the said opinion is based upon an *ex parte* inquiry report



submitted before the learned Single Judge. The said *ex parte* report was obtained, firstly, without associating the appellant and secondly, after the appointment of the appellant as Lambardar. In such cases, in case the appointment becomes vitiated, the same is ought to be set aside by a competent authority under the provisions of law, whereas, reliance was placed upon subsequent fact to change the candidate from appellant to respondent No.1, which is not correct.

8. Further, any report prepared *ex parte*, cannot cause prejudice unless and until opportunity to rebut the same is given to the concerned before the said document is treated to the prejudice of such concerned person. In the present case, *ex parte* inquiry report for the educational qualification of the appellant has been used against him and that too, without associating him which is prejudicial and therefore, cannot be accepted.

9. At this stage, learned counsel for respondent No.1 submits that as the appointment of respondent No.1 was not final for the reason that an appeal has been filed, the same could have been done by the Commissioner, which was rightly done. In this regard, it may be noticed that once the appointment is made by the Collector, the filing of an appeal does not mean that the appointment is not final. Further, any document which has been taken into consideration in appeal, which was not existing on the date of appointment, the same cannot be taken into account by the appellate authority post such appointment qua its validity of appointment. The *ex parte* enquiry report qua educational qualification, which has been relied upon by the Commissioner to decide the issue with regard to the entitlement



of the appellant to be appointed as Lambardar was non-existent on the day of appointment of appellant as Lambardar and the said document which is subsequent to the appointment can only be taken into consideration for the purpose of setting aside of the appointment, whereas the Commissioner treated the same for substitution of the candidate, which was impermissible.

10. Hence, keeping in view the facts and circumstances of the present case, the order passed by the Financial Commissioner, Punjab, was most suited so as to remand the case back to the District Collector for deciding the claim afresh in accordance with law by giving opportunity to both the sides to present their objections against each other including the factor of education qualification of appellant, order passed by the learned Single Judge is set aside.

11. Let the District Collector decide the proceedings within a period of eight weeks from the date of receipt of copy of this order by giving due opportunity of of being heard to both the parties to present their objections against each other before determining the suitable candidate out of the appellant and the respondent No.1. Further, till the fresh order is passed by the District Collector, the Lambardar, who is already officiating as on date as per the revenue records, will continue.

12. Accordingly, the present appeal is allowed in above terms.

13. Pending applications, if any, also stand disposed of.

( HARSIMRAN SINGH SETHI )  
JUDGE

( VIKAS SURI )  
JUDGE

**February 04, 2026**  
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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |