

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-18900-CWP-2025 in
CM-18901-CWP-2025 in/and
CWP-29424-2024 (O/M)
Date of decision : 11.03.2026

Munish Kumar Jain

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. M.K. Dogra, Mr. Ankush Sharma, Advocates
for applicant-petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

CM-18900-CWP-2025

1. This is an application filed under Section 5 of Limitation Act for condonation of delay of 174 days in filing the restoration application.
2. For the reasons mentioned in application, same is allowed and delay of 174 days in filing the restoration application is condoned.
3. Application is accordingly disposed of.

CM-18901-CWP-2025

1. This is an application filed under Section 151 CPC read with Order 9 Rule 9 CPC for restoration of main writ petition (CWP-29424-2024), which was dismissed for non prosecution, vide order dated 22.05.2025.

2. For the reasons mentioned in application, the instant application is allowed; main writ petition is restored to its original number and status and same is taken on board today for hearing.

3. Application is disposed of accordingly.

CWP-29424-2024 (O/M)

1. Prayer in this 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 order dated 11.10.2021 (Annexure P-3), passed by learned Financial Commissioner, Punjab (in short 'Financial Commissioner').

1.1 A further prayer has been made for upholding the order dated 17.01.2017 (Annexure P-1), passed by learned Collector, Hoshiarpur (in short 'Collector') as well as order dated 24.07.2019 (Annexure P-2), passed by learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner').

2. Briefly, respondent No. 3 (Vijay Kumar Jain) was appointed as Lambardar of village Mahiuldinpur Dalel, Tehsil Mukerian. Petitioner herein (Munish Kumar Jain) submitted a representation dated 23.02.2016 before learned Collector, highlighting illegalities/irregularities in performance of duties by respondent No. 3 (Vijay Kumar Jain) as Lambardar. The aforesaid representation submitted by petitioner was processed and the matter was got investigated by Sub Divisional Magistrate, Mukerian, who submitted his report dated 19.07.2016. Although copy of said report has not been attached with the writ petition; however, it is stated by the petitioner that in the said report it was reported that a case FIR No. 68, dated 12.05.2012 was registered against

respondent No. 3 (Vijay Kumar Jain), wherein trial was going on. It was also reported that respondent No. 3 had illegally occupied 4 marla area and constructed a shop thereon.

2.1 It appears that learned Collector, vide order dated 17.01.2017 (Annexure P-1), removed respondent No. 3 (Vijay Kumar Jain) from the post of Lambardar by observing as under :-

“I have thoroughly examined the file and after personally hearing Sh. Vijay Kumar, Mahiuldinpur Delel, Tehsil Mukerian and perusing the report of Municipal Council, Mukerian, I have come to the conclusion that Sh. Vijay Kumar Jain son of Raghuvir Das Jain Lambardar Village Mahiuldinpur Dalel, Tehsil Mukerian have done illegal things keeping his interests as the main. According to the provision in Rule 20 of the Punjab Land Revenue Act 1887, if there is illegal encroachment on the land of the Panchayat/Municipal Council in the village, then the Lambardar has to inform the Tehsildar about it, but Sh. Vijay Kumar Jain, Lambardar, Village Mahiuldinpur, has constructed illegally Khasra No. 1237/183/1 the land of Municipal Council. In this way, he has violated Land Revenue Rules of Punjab. Along with this, an FIR has been registered against him by the Municipal Council for cheating and he himself has admitted in his reply that the charge of section 420 has been brought against him by the civil court, which shows his conduct and behavior. Thus, there are very serious allegations against him, due to which his position does not seem to be worth continuing. Therefore, Sh. Vijay Kumar Jain, Lambardar village Mahiuldinpur Dalel is removed from the post of Lambardari under Section 16 of Revenue Rules Punjab. Sub-Divisional Magistrate, Mukerian is instructed to fill up this vacant post

by holding the proclamation as per the rules, and take the necessary action. The file be consigned to record room.”

2.2 Feeling aggrieved against learned Collector's order dated 17.01.2017 (Annexure P-1), respondent No. 3 (Vijay Kumar Jain) preferred an appeal before learned Divisional Commissioner, which was dismissed, vide order dated 24.07.2019 (Annexure P-2).

2.3 Still aggrieved respondent No. 3 (Vijay Kumar Jain) preferred a revision petition before learned Financial Commissioner, which has been allowed, vide order dated 11.10.2021 (Annexure P-3).

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

4. Heard.

5. The operative part of order dated 11.10.2021 (Annexure P-3) reads as under :-

“6. On perusal of the file, I find that a FIR No. 68 dated 12.05.2012 u/s 420, 465, 467, 468, 471 and 120-B P.S. Mukerian was registered against the present petitioner on the complaint made by Sh. Munish Kumar, the respondent No. 1 and Sub Divisional Judicial Magistrate vide order dated 06.03.2018 has acquitted the accused of the charges framed against him and in para No. 26 specifically held that in the present case, there is ample evidence on the file to show that the accused did not have any mala fide intention while getting the site plan of his spot bearing khasra No. 188. But the District Collector as well as the Commissioner, Jalandhar Division, Jalandhar failed to consider this fact. Thus, the decision of the District Collector for dismissing the petitioner from the post of lambardar on the basis of FIR No. 68 registered is illegal

and perverse. The District Collector failed to appreciate the fact that said FIR has been registered against the petitioner due to his personal enmity with respondent No. 1. A FIR No. 141 dated 26.12.2008 u/s 448, 511, 427, 147, 149 of IPC had been registered at Police Station Mukerian against the respondent No. 1 and others on the complaint of the present petitioner and the Judicial Magistrate 1st Class, Dasuya vide order dated 01.10.2018 convicted the respondent No. 1 to undergo rigorous imprisonment for a period of one year and also imposed a fine of Rs. 1000. Thus, it is established fact that in order to harass the petitioner, the respondent No. 1 has filed false and frivolous cases against and (as typed) the petitioner. The case of petitioner is fully covered under the authorities of cases reported as 2002 (1) PLJ page 177 wherein it was held that “mere registration of FIR against a candidate is not a bar for considering a person for the post of lambardar unless one is convicted by the court of competent jurisdiction”.

So far as the dismissal of the petitioner on the allegation that he has encroached upon the land bearing khasra No. 188 of Municipal Committee is concerned, the District Collector has failed to consider that the petitioner is owner of 2 kanal land in the Khasra No. 188 and judgment and decree dated 03.01.1996, 08.04.1999, 08.10.2004, 23.10.2010, 17.03.2012 of the Civil Courts clearly show that the petitioner is owner of the land measuring 2 kanal in Khasra No. 188, thus has not encroached upon any land of the Municipal Committee. Therefore, in the light of facts and circumstances of the case, I am of view that the order dated 24.07.2019 passed by the Commissioner, Jalandhar Division, Jalandhar and the order dated 17.01.2017 passed by the District Collector, Hoshiarpur suffers from illegality and perversity and deserves to be set aside.

7. *Resultantly, the present revision petition is allowed and the orders date 24.07.2019 passed by the Commissioner, Jalandhar Division, Jalandhar and the order dated 17.01.2017 passed by the District Collector, Hoshiarpur are set aside. The petitioner is reinstated to the post of lambardar. Copy of this order be communicated to the courts below. Record be returned and file be consigned to record room."*

6. Learned counsel for petitioner has failed to dislodge the observations made by learned Financial Commissioner in order dated 11.10.2021 (Annexure P-3).

7. In my considered view, the reasoning rendered by learned Financial Commissioner in setting aside the order dated 17.01.2017 (Annexure P-1), passed by learned Collector, whereby respondent No. 3 (Vijay Kumar Jain) was removed from the post of Lambardar, does not suffer from any illegality or perversity, which may warrant interference by this Court.

8. Resultantly, the instant civil writ petition fails and same is accordingly, dismissed.

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

(HARSH BUNGER)
JUDGE

11.03.2026
sjks

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