
(2016) 03 P&H CK 0343
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 24678 of 2012

Avtar Singh

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 30-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2016) 1 LAR 316

Hon'ble Judges : Paramjeet Singh Dhaliwal, J.

Bench : Single Bench

Advocate : Mr. Amandeep Soni, Advocate and Mr. B.S. Cheema, DAG, Punjab, for the Appellant; Mr. G.S. Jaswal, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Paramjeet Singh Dhaliwal, J.—The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ of certiorari thereby quashing order dated 30.07.2010 (Annexure P-4) passed by the Additional Commissioner (Appeals) Jalandhar and order dated 09.08.2012 (Annexure P-5) passed by Financial Commissioner, Punjab.

2. Brief facts of the case are that on account of death of Rajinder Kumar, Lambardar of village Sarhal Quazian, Tehsil and District Shaheed Bhagat Singh Nagar, the post of Lambardar fell vacant and process was initiated to fill up the vacancy. Proclamation was made in the village. In pursuance of the proclamation, four persons namely Madhu Sudan (respondent No.4), Surinder Singh, Kewal Krishan Singh and Sarabjit Singh applied for the post of Lambardar. One applicant did not turn up whereas two applicants withdrew their applications. With this, only respondent No.4 was left in the fray. However, some villagers are alleged to have moved an application before the Collector raising an objection that proper munadi was not made in the village. The Collector, vide order dated 05.11.2009 (Annexure P-2), directed the SDM Nawanshahar to conduct fresh proclamation in the village in accordance with the rules and procedure. Against

that order, respondent No.4 Madhu Sudan filed a revision before the Commissioner, Jalandhar Division. The Additional Commissioner (Appeals), Jalandhar Division, set aside the order (Annexure P-2) of the Collector and remanded the case to the Collector with a direction to proceed further on the basis of earlier proclamation vide order dated 30.07.2010 (Annexure P-4). Against the remand order, the petitioner preferred a revision before the Financial Commissioner and the same has been dismissed by the impugned order dated 09.08.2012 (Annexure P-5). Hence this writ petition.

3. I have heard the learned counsel for the parties.

4. Learned counsel for the petitioner has vehemently argued that there was no valid proclamation made for inviting applications for filling up the post of Lambardar in the said village. The Collector had rightly ordered the fresh proclamation vide order dated 05.11.2009 (Annexure P-2). However, the order of the Collector has been wrongly set aside by the Commissioner and further order of the Commissioner has been wrongly upheld by the Financial Commissioner. Both the orders of the Commissioner and Financial Commissioner are not sustainable.

5. On the other hand, learned counsel for the respondent No.4 vehemently contended that proper proclamation was made in the village and there was no need for the second proclamation. Two of the alleged signatories to the said representation i.e. Sh. Avtar Singh, Panch and Smt. Balbir Kaur Sarpanch have given sworn affidavits that proper munadi was conducted in the village and no one else turned up to support the alleged representation. The Commissioner has specifically recorded a finding that proper munadi was conducted. Finding of Commissioner has been affirmed by the Financial Commissioner. It is further submitted that in pursuance of remand order dated 30.07.2010 passed by the Commissioner, the Collector has already completed the process on the basis of earlier proclamation and has appointed respondent No.4 as Lambardar. The said order has not been challenged by the petitioner.

6. I have considered the contentions of the learned counsel for the parties.

7. It has been categorically found by the Commissioner that the alleged representation made by some of the villagers has not been authenticated. Two alleged signatories thereto have given sworn affidavits that proclamation/munadi was validly made. No other alleged signatory came forward to support the representation raising objection that proper proclamation was not made. It has further been observed by the Commissioner by making reference to the record in detail that proper proclamation has been made. The order of the Commissioner has been upheld by the Financial Commissioner. Moreover, on remand, the Collector has appointed respondent No.4 as Lambardar. The said order has not been challenged by the petitioner.

8. In view of the above, there is no ground to interfere in the impugned orders dated 30.07.2010 and 09.08.2012 (Annexures P-4 and P-5) passed by the

Commissioner and Financial Commissioner, respectively.

9. Dismissed.