

(2012) 08 P&H CK 0291
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9615 of 2010

Baldev Singh

APPELLANT

Vs

Financial Commissioner (Appeals) Punjab and Another

RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Citation : (2012) 08 P&H CK 0291

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Advocate : C.M. Munjal, for the Appellant; B.B.S. Teji, Addl. A.G. Punjab and Mr. Jatinder Singla, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Ranjit Singh, J.—The father of the petitioner Gurdial Singh, earlier Lambardar of the Village Nandali, Tehsil Rajpura, District Patiala died on 04.05.2006. The petitioner claims to have been their appointed as Sarbarah Lambardar. The petitioner submitted his application to SDM for appointment to the post of Lambardar on 30.05.2006. The said application was forwarded and marked to the revenue officials. Respondent No. 2 also applied for the appointment as a Lambardar. Both the petitioner and respondent No. 2 then applied for the post of Lambardar on 29.06.2007. The case was remanded to Naib Tehsildar for holding Munadi in the Village and rightly so. After fresh Munadi, petitioner and respondent No. 2 again applied on 19.02.2008. The petitioner was appointed to the post of Lambardar by the Collector on 26.11.2008. Respondent No. 2 filed an appeal before the Commissioner which was dismissed. He approached the Financial Commissioner who has set aside the order passed by the Collector and upheld by the Commissioner and has sent back to the Collector for considering the claim of parties afresh. Counsel for the petitioner contends that the only reason for which the Financial Commissioner has remanded the case is that the Collector had not granted permission for commencing the process for appointment of Lambardar. This is the ground raised by counsel for respondent

No. 2 before me as well.

2. The question to be seen is if this would amount to any illegality to recommence the process all over again. This apparently may amount to some irregularity but would not show any illegality. Once the process was initiated, the recommendations were made and received by the Collector who considered the merits and demerits of the candidates and thereafter has appointed the petitioner. This view was upheld by the Commissioner as the choice of District Collector need not to be interfered unless and until it suffered from patent illegality. Once the Collector had received the recommendation and considered the merits and demerits of the candidates concerned, he by implication had permitted the process of appointment as this would be deemed sanction in a retrospective manner. Otherwise also, if the Assistant Collector had initiated the process and had sought sanction from the Collector, he could not have passed any order but to grant permission for commencing the process of appointment of Lambardar in the Village. This is, as such, mere irregularity and can not be a valid ground to interfere in the order passed by the Collector as has been viewed by Financial Commissioner.

3. Counsel for respondent No. 2 has placed before me judgment passed by this Court in the case Harsunjit Singh vs. The Financial Commissioner, Punjab and another, 2008(4) R.C.R. (Civil) 794 where the process initiated by Naib Tehsilar inviting applications was set aside by this Court. In this case the process was commenced without permission of the Collector. The petitioner therein had approached the Collector for holding a fresh Munadi when the process was initiated by Naib Tehsildar. In this background notice issued by the Naib Tehsildar was set aside and the permission was given by the Collector to hold fresh Munadi. These facts would distinguish the above case from the facts submitted in present case.

4. The order passed by the Financial Commissioner, therefore, can not sustained and is set aside. Appointment of petitioner as Lambardar as ordered by the Collector is upheld. The writ petition is, accordingly, allowed.