

(2013) 07 P&H CK 0026
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 2413 of 2010

Baljeet Singh

APPELLANT

Vs

Financial Commissioner, Revenue and Others

RESPONDENT

Date of Decision : 16-07-2013

Acts Referred:

Citation : (2013) 4 RCR(Civil) 353

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : J.S. Brar, for the Appellant; V. Ramsawroop, Addl. A.G., Punjab and Mr. R.K. Kakkar, Advocate for the Respondent No. 4, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—The post of Lambardar in general category of village Doda, Tehsil Gidderbaha, District Muktsar, fell vacant after the death of Balraj Singh. The process for selection and appointment of Lambardar was started with a proclamation, which attracted 11 candidates, but ultimately only 3 candidates remained in the contest, namely, the petitioner, respondent No. 4 and one Angrej Singh. After Angrej Singh withdrew his application, the Collector, after considering the inter-se merits of the remaining two candidates, appointed respondent No. 4 as Lambardar vide his order dated 01.03.2007. The petitioner's appeal before the Commissioner was allowed on 29.11.2007 but the Financial Commissioner reversed the order of the Commissioner and restored the order of the Collector vide order dated 24.03.2009. The petitioner has, thus, challenged order dated 01.03.2007 passed by the Collector and dated 24.03.2009 passed by the Financial Commissioner, inter alia, on the ground that the deceased Balraj Singh was the Lambardar of Patti Moola of village Doda. There are two other Lambardars of the other Pattis of the village but respondent No. 4, who resides in Patti Bamu and owns land in Patti Bamu, is not entitled to be appointed as Lambardar of Patti Moola. It is also submitted that the petitioner belongs to the family of the deceased Lambardar, whereas respondent No. 4 is

neither related to the deceased Lambardar and is a youngman of 27 years. In reply, counsel for respondent No. 4 has submitted that in the case of appointment of Lambardar, the choice of the Collector is not to be interfered with until and unless there is some perversity in his order which is conspicuous by its absence in the present case and the respondent No. 4 has been considered to be more meritorious than the petitioner being a youngman of 27 years of age, matriculate, having 12-1/2 acres of land and has been recommended by both the Naib Tehsildar, Doda and the Sub Divisional Magistrate, Gidderbaha. In respect of the issue of not having the land in Patti Moola, it is submitted that there is no requirement of law about the possession of land in the Patti concerned because the word used in the Punjab Land Revenue Rules (as applicable to Punjab) [hereinafter referred to as the "Rules"] is "estate" which is not confined to the Patti and is identical to a village.

2. I have heard both counsel for the parties and perused the record.

3. From the facts and circumstances, the core question involved in the present case is as to "whether it is necessary for a candidate to have land in a Patti or in the estate". In this regard, it would be relevant to refer to Rule 15 of the Rules, which reads as under:-

15. Matters to be considered in first appointments.--In all first appointments of headman, regard shall be had among other matters to--

(a) his hereditary claims;

(b) the property in the estate possessed by the candidate to secure the recovery of land revenue;

(c) services rendered to the State by himself or by his family;

(d) his personal influence, character, ability and freedom from indebtedness;

(e) the strength and importance of the community from which selection of a headman is to be made;

(f) services rendered by himself or by his family in the national movements to secure freedom of India.

4. A perusal of Rule 15(b) of the Rules indicates that it only refers to the property in the estate possessed by the candidate to secure the recovery of land revenue.

5. Counsel for respondent No. 4 has submitted that since there is no land revenue in the State of Punjab since long, therefore, the requirement of having the land has practically become redundant, whereas counsel for the petitioner has submitted that as per Rule 16(c) of the Rules, the requirement of holding the land is still there because if the Lambardar ceases to be a landowner in the estate or the sub division of the estate, then he could be dismissed.

6. The purpose for framing this Rule appears to be two fold, firstly the person to

be appointed as Lambardar, if has the land in the estate, he would be a permanent resident of the estate and would always be available to the members of the village and also the revenue officials for the discharge of his duties, as provided under Rule 20 of the Rules and, secondly, having the property in the estate would be a security as the job of the Lambardar was to collect the land revenue or other similar sums. Although the land revenue has now been abolished in the State of Punjab, but still it is provided in the duties of the Lambardar under Rule 20 of the Rules that he would collect all sums recoverable as land revenue from the estate, collect the rents and account for them to the person entitled thereto etc.

7. Thus, holding of the land by a candidate aspiring to become a Lambardar has some significance in the matter to be considered but the question involved is as to whether it should be in the same Patti or in the revenue estate. The word used by the Legislature in Rule 15(b) of the Rules is the "estate", which is defined in Section 3(1) of the Punjab Land Revenue Act, 1887, which reads as under-

3. Definitions.--In this Act, unless there is something repugnant in the subject or con-text,--

(1) "estate" means any area-

(a) for which a separate record-of-rights has been made; or

(b) which has been separately assessed to land revenue, or would have been so assessed if the land revenue had not been released, compounded for or redeemed; or

(c) which the State Government may, by general rule or special order, declare to be an estate.

xxx xxx xxx xxx

8. Estate means any area for which a separate re-cord-of-rights has been made or which has been separately assessed to land revenue, or would have been so assessed if the land revenue had not been released, compounded for or redeemed; or which the State Government may, by general rule or special order, declare to be an estate. Thus, in my view, the estate cannot be equated with Patti and in this regard, I rely upon a decision of this Court in the case of Harmanjit Singh v. Financial Commissioner, Cooperation, Punjab, 2003 (3) R.C.R. (Civil) 240 : 2003 (1) PLJ 600, in which it has been held that holding of land in the same Patti is not an essential eligibility condition. It was further held that if the Financial Commissioner has appointed a candidate holding land in the same Patti, having 15 years experience of Sarbarah Lambardar ignoring the candidate having no land in the Patti but having a little more educational qualification, then it will not be a fit case for interference in exercise of writ jurisdiction. In the present case as well, the Collector had found that though the respondent No. 4 is more meritorious than the petitioner but the Commissioner has reversed his order only on the ground that respondent No. 4 belongs to Patti Bamu and has

no land in Patti Moola though undisputedly, respondent No. 4 has 12 -- acres of land in the same revenue state. The Financial Commissioner has also found that the petitioner is illiterate, whereas respondent No. 4 is an educated man and should have been given the preference.

In view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.