

(2011) 10 P&H CK 0039
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 19248 of 2009

Baljinder Singh	Vs	APPELLANT
Commissioner, Patiala Division, Patiala and Others		RESPONDENT

Date of Decision : 14-10-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Penal Code, 1860 (IPC) — Section 120B, 124A, 406, 420, 505

Citation : (2011) 10 P&H CK 0039

Hon'ble Judges : Mehinder Singh Sullar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mehinder Singh Sullar, J.—The contour of the facts, culminating in the commencement, relevant for the limited purpose of deciding the core controversy, involved in the instant writ petition and emanating from the record, is that, in the wake of creation of a new post in the category of scheduled caste for appointment of Lambardar of village Pattran, Tehsil Kharar, Distt.S.A.S. Nagar, three candidates, namely, Baljinder Singh son of Ajmer Singh (petitioner), Dhian Singh son of Gurdev Singh (respondent No. 3) and Harjinder Singh son of Som Singh (respondent No. 4) applied and lodged their respective claims for the indicated post of Lambardar within the prescribed period.

2. Having considered the respective merits and de-merits of the candidates and after following the due procedure, as contemplated under the provisions of The Punjab Land Revenue Act, 1887 and the Rules framed thereunder (hereinafter to be referred as "the Act and the relevant Rules"), the District Collector, SAS Nagar (respondent No. 2) appointed Dhian Singh (respondent No. 3) as Lambardar on the newly created post, by virtue of impugned order dated 12.1.2010 (Annexure P3).

3. Aggrieved by the said order, the Petitioner filed the appeal, which was dismissed as well, by the Divisional Commissioner, Patiala Division, by way of

impugned order dated 13.7.2011 (Annexure P4).

4. The Petitioner still did not feel satisfied with the impugned orders (Annexures P3 and P4) and preferred the instant writ petition, invoking the provisions of Articles 226/227 of the Constitution of India.

5. After hearing the Learned Counsel for the Petitioner, going through the record with his valuable help and after considering the entire matter deeply, to my mind, there is no merit in the present writ petition.

6. Ex facie, the argument of Learned Counsel that since the District Collector and Divisional Commissioner have wrongly ignored the claim of the Petitioner on the ground of registration of criminal case, in which, he has already been acquitted, so, the impugned orders (Annexures P3 and P4) deserve to be set aside, sans merit.

7. As is evident from the record that, having considered the pros and cons of the candidature of candidates and after following the due procedure, as envisaged under the provisions of the Act and the relevant Rules, the District Collector, SAS Nagar (respondent No. 2) appointed Dhian Singh (respondent No. 3) as Lambardar on the newly created post, vide impugned order dated 12.1.2010 (Annexure P3), which, in substance, is as under:

After perusing the record brought on the case file, after hearing the respective counsels of the parties I had reached the conclusion candidate Dhian Singh is most suitable candidate to be appointed for the post of the Lambardar as compared to other three candidates because:

(a) This candidate is much more educated than other candidate. This candidate is taking part in the works of N.S.S. He has also shown the certificate issued by Director Youth Welfare in this regard. The meaning of taking part the work of N.S.S. is that this person is interested in doing the work of the Nation. It will be in the better interest of the villagers to appoint this person as a Lambardar.

(b) As per the report Magistrate-cum-Assistant Collector 1 one case F.I.R. is registered against candidate Baljinder Singh u/s 124A, 505 C.W.P. No. 19248 of 2011 B I.P.C.P.S. Mohali and second case F.I.R. 125, 34 Indian Penal Code dated 9.04.1999, P.S. Sohana. due to which this person is not fit to be appointed as the Lambardar of the village.

(c) As per the report Magistrate-cum-Assistant Collector 1 one case F.I.R. No. 337 dated 23.10.2001 u/s 406/420/120-B Indian Penal Code P.S. Sohana registered against candidate Shri Harjinder Singh due to which this person is not fit to be appointed as the Lambardar of the village.

(d) S.D.M.-cum-Assistant Collector Grade I, Kharar, Tehsildar cum Assistant Collector Grade 2 and Naib Tehsildar cum Assistant Collector Grade 2 had recommended to appoint Dhian Singh as Lambardar.

Keeping in view the above I hereby appoint Dhian Singh s/o Shri Gurdev Singh

as Lambardar to the newly created post of scheduled caste Lambardar of village Pattran. Sanad will be issued after completion of the period of limitation of appeal to be filed by the candidate.

8. Not only that, the order/choice of the District Collector was confirmed by the Divisional Commissioner, by virtue of impugned order (Annexure P4). Moreover, admittedly, the Collector is the appointing authority of the Lambardar. The appointment of Lambardar is administrative function and is prerogative of the District Collector, being In-charge of the Administration. It is the duty of the Collector to appoint such persons in the office of Lambardar, who are eligible and competent to carry out the duties efficiently. He is in an advantageous position to examine the merits and demerits of the candidates. The choice of the Collector in the matter of appointment of village Lambardar should not normally be interfered with, unless the Collector has taken a perverse view and has not exercised his choice judiciously.

9. The Learned Counsel for the Petitioner did not point out any legal violation and material, much less cogent, to contend as to how and in what manner, the impugned orders of the Distt. Collector (Annexure P3) and Divisional Commissioner (Annexure P4) are illegal and would invite any interference in this relevant behalf.

10. No other meaningful argument has been raised by the learned counsel for the Petitioner to assail the impugned orders. All other celebrated arguments, now sought to be urged on his behalf in this relevant direction, have already been duly considered and dealt with by the authorities below.

11. Meaning thereby, the District Collector and Divisional Commissioner have recorded the cogent grounds in this relevant connection. Such orders, containing valid reasons, cannot possibly be interfered with by this Court, while exercising the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India, unless and until, the same are illegal and perverse. Since no such patent illegality or legal infirmity has been pointed out by the Learned Counsel for the Petitioner, so, the impugned orders (Annexures P3 & P4) deserve to be and are hereby maintained, in the obtaining circumstances of the case.

12. No other legal point, worth consideration, has either been urged or pressed by the counsel for the Petitioner.

13. In the light of aforementioned reasons, as there is no merit, therefore, the instant writ petition is hereby dismissed as such.