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**(2008) 08 P&H CK 0086**  
**In the Punjab And Haryana At Chandigarh**

Gurlal Singh

APPELLANT

Vs

Financial Commissioner (Revenue) and Others

RESPONDENT

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**Date of Decision :** 07-08-2008

**Acts Referred:**

Punjab Land Revenue Act, 1887 — Section 16

**Citation :** (2008) 152 PLR 90 : (2008) 4 RCR(Civil) 792

**Hon'ble Judges :** Satish Kumar Mittal, J;Daya Chaudhary, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## Judgement

Satish Kumar Mittal, J.—Petitioner Gurlal Singh, who was appointed as Lambardar of village Jasseana, Tehsil and District Muktsar by order dated 13.3.2003 passed by the Commissioner, Ferozepur Division, Ferozepur, while accepting his appeal against the order of the Collector, has filed the instant petition challenging the order dated 17.12.2007 passed by the Financial Commissioner, Revenue, Punjab, whereby while disposing of the revision petition filed by respondent No. 3 the matter has been remanded to the District Collector for appointment of Lambardar by inviting fresh application.

2. The brief facts of the case are that after the death of earlier Lambardar of the village in the year 2002, applications were invited for appointment to the post of Lambardar after due proclamation in the village. In pursuance of the said proclamation, nine candidates applied for the said post, including the petitioner and respondents No. 2 and 3.

3. The Collector after considering the comparative merits of all the candidates, appointed Bikkar Singh (respondent No. 3 herein) as Lambardar of the village vide his order dated 29.8.2002. Against the said order the petitioner and Baljinder Singh (respondent No. 2 herein) filed two separate appeals before the Commissioner. The Commissioner dismissed the appeal of Baljinder Singh and allowed the appeal filed by the petitioner by passing a common order dated

13.3.2003 while observing as under:

I have heard the learned Counsel of both the appellants as well as respondent and also perused the lower court record and came to the conclusion that appellant Gurlal Singh is young in age and passed upto Matric and owns 233 kanals 11 marlas of land whereas the others i.e. appellant Baljinder Singh and respondent owns less land and less qualification than the Gurlal Singh. Moreover, the father of the appellant (Gurlal Singh) remained Sarpanch of the village for about 15 years and the commands good respect in the village. This factor must be considered at the time of appointment of Lambardar as per citation passed by the learned Financial Commissioner, Revenue in R.O.R. No. 358 of 1995-96 in case Kuldip Singh v. Sarabjit Singh. Therefore, in these circumstances, I accept the appeal bearing No. Lamb.68/2002 and dismiss the connected appeal Baljinder Singh v. Bikkar Singh and appoint Sh. Gurlal Singh s/o Dalip Singh, Lambardar of village Jasseana Dial Patti, Tehsil and District Muktsar and set aside the impugned order.

Against the aforesaid order, only Baljinder Singh filed revision petition before the Financial Commissioner which has been allowed by the impugned order and the matter has been remanded to the District Collector while observing as under:

After hearing both the counsel and carefully going through the record as well as the order of the lower Courts, I consider it fit to remand the case to District Collector, Muktsar for inviting fresh application for appointment of Lambardar of village Jasseana for a wider choice and also consider the present three candidates, namely Bikkar Singh, Baljinder Singh and Gurlal Singh. The present revision petition is disposed of accordingly.

This order has been challenged by the petitioner in the instant writ petition.

3. We have heard the counsel for the parties.

4. Counsel for the petitioner contends that the Financial Commissioner was not justified in remanding the case to the Collector for inviting fresh applications for appointment to the post of Lambardar. He submitted that it was not the case of either party before the Financial Commissioner that in the instant case no proper proclamation for inviting applications for the post of Lambardar was made. The Financial Commissioner can remand the case for inviting fresh applications for appointment of Lambardar only in case he comes to the conclusion that proper opportunity was not given to the villagers by making due proclamation by inviting the applications for appointment of Lambardar or that none of the candidate is eligible or suitable for appointment on the post. But, in this case no such finding has been recorded by the Financial Commissioner. Learned Counsel further submitted that the Commissioner after considering the comparative merits of all the candidates came to the conclusion that the petitioner was the most suitable candidate for appointment of Lambardar, therefore, he was appointed as such after setting aside the appointment of Bikkar Singh made by the Collector. The Financial Commissioner has not touched that aspect or has

come to the conclusion that the petitioner was not a better candidate or was ineligible or unqualified for appointment to the post of Lambardar. Without coming to such conclusion, the Financial Commissioner was not justified in setting aside the order of the Collector.

5. On the other hand, counsel for the respondent No. 2 submitted that the Financial Commissioner has wide powers even to remand the case on an issue which was not before him.

6. After considering the rival submissions made by the counsel for the parties, we are of the opinion that the impugned order passed by the Financial Commissioner is liable to be quashed. Undisputedly, in this case the appeal filed by the petitioner was allowed by the Commissioner and after considering the comparative merits of the petitioner vis-a-vis other two candidates, namely, Baljinder Singh and Bikkar Singh (respondents No. 2 and 3 herein), the petitioner was found to be more meritorious for appointment to the post of Lambardar, and accordingly, he was ordered to be appointed as Lambardar after setting aside the appointment of Bikkar Singh made by the Collector. The Financial Commissioner while exercising the revisional powers can set aside that order if he finds glaring illegality or irregularity in the said order or he could have appointed Baljinder Singh (respondent No. 2) on the post after coming to the conclusion that he was more suitable than the petitioner. But, in our opinion, the Financial Commissioner has exceeded his jurisdiction while remanding the matter with a direction for inviting fresh applications, for wider choice. The Financial Commissioner could have ordered for inviting fresh applications if there could have been any illegality or irregularity in inviting the applications for appointment to the post of Lambardar. The powers of Financial Commissioner in revision u/s 16 of the Punjab Land Revenue Act, 1887 are though wide, but it is settled law that the revisional powers should be exercised if the order of the subordinate Court is without jurisdiction or the Court has not exercised jurisdiction vested in it or has acted illegally or with material irregularity.

7. In the present case, it was neither the case of any party before the Commissioner as well as Financial Commissioner that proper proclamation for inviting the application was not made nor there any finding in this regard has been recorded by the Financial Commissioner. Nor it has been found that none of the candidate is eligible or suitable for appointment on the post. In these facts, in our opinion, the Financial Commissioner was not justified in remanding the case for inviting fresh applications for better choice. He has exceeded his jurisdiction while remanding the matter on an issue which was not raised by any of the party before him.

8. The Commissioner in its order dated 13.3.2003 while appointing the petitioner as Lambardar, has analyzed the comparative merits of both the candidates. It has been observed that the petitioner is young in age and passed up to Matric and owns 233 kanals 11 marlas of land whereas respondent No. 2-Baljinder Singh owns less land and is less qualified than Gurlal Singh-Petitioner.

9. Counsel for the petitioner could not point out any illegality or infirmity in the said order passed by the Commissioner.

10. Consequently, the petition is allowed and the impugned order dated 17.12.2007 (Annexure P-3) passed by respondent No. 1 is quashed and the order dated 13.3.2003 passed by the Commissioner is restored.