

(2016) 11 P&H CK 0120
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 11726 of 2015.

**Gurpreet Singh - Petitioner @HASH Financial Commissioner, Revenue,
Punjab and Others**

Date of Decision : 08-11-2016

Acts Referred:

Punjab Land Revenue (Lambardari) Rules, 1908 — Rule 15(b), Rule 16(1)(c)

Citation : (2016) 4 LawHerald 3566 : (2017) 1 RCRCivil 233

Hon'ble Judges : Rameshwar Singh Malik, J.

Bench : Single Bench

Advocate : Rajbir Singh, Advocate, for the Petitioner; B.M. Vinayak, DAG, Punjab, for the Respondent; D.S. Brar, Advocate, for the Respondent No. 4

Final Decision : Allowed

Judgement

Rameshwar Singh Malik, J. (Oral)—Present writ petition is directed against the order dated 24.03.2015 (Annexure P-7) passed by Financial Commissioner (Revenue), Punjab, whereby he allowed the revision petition filed by respondent No.4, setting aside the orders passed by District Collector as well as Commissioner, appointing the petitioner as Lambardar and the matter was remanded by the Financial Commissioner to District Collector to decide the case afresh.

2. Notice of motion was issued and in the meantime, operation of the impugned order dated 24.03.2015 (Annexure P-7) was stayed. No written statement has been filed either by the official respondents or by respondent No.4. However, in compliance of the order dated 03.02.2016 passed by this Court, an affidavit dated 11.07.2016 was filed by Assistant Collector 2nd Grade, Budhlada to the effect that in the present case, applications for the post of Lambardar of village Budhlada were invited for the entire village and not for specific Patti.

3. Heard learned counsel for the parties.

4. It is a matter of record that one post of Lambardar fell vacant in the village of the parties, after death of late Sh. Sukhdev Singh, Lambardar. Process was

initiated to fill up this vacancy. Proclamation was got conducted. Numerous applications were filed by the aspiring candidates for the post of Lambardar. After examining and comparing the merits of the contesting candidates, learned District Collector came to the definite conclusion that petitioner was the best suited candidate for the post of Lambardar. Accordingly, vide his order dated 25.04.2011 (Annexure P-3), learned District Collector, Mansa appointed the petitioner as Lambardar. Respondent No.4 filed his appeal, which also came to be dismissed by learned Commissioner, Faridkot Division, Faridkot vide his order dated 30.01.2013 (Annexure P-5). However, on the revision petition having been filed by respondent No.4, Financial Commissioner (Revenue), Punjab fell in serious error of law, while setting aside both the above said orders passed by District Collector as well as Commissioner and remanded the case to the District Collector for fresh decision, vide impugned order dated 24.03.2015 (Annexure P-7). Hence this writ petition.

5. A bare combined reading of the orders passed by learned District Collector as well as learned Commissioner, Faridkot Division, Faridkot would make it crystal clear that none of these revenue authorities have committed any error of law, while passing their respective orders. It is not even pleaded or argued case on behalf of respondent No.4 that petitioner was not eligible or disqualified for the post of Lambardar. It was not the case of respondent No.4 that he was not granted due opportunity of being heard or any principle of natural justice was violated by the District Collector, while passing his order appointing the petitioner as Lambardar.

6. Similarly, the matter was again considered by the learned Commissioner, Faridkot Division, Faridkot and he recorded his cogent findings, which have been found based on sound reasons. The relevant operative part of the order dated 30.01.2013 (Annexure P-5) passed by learned Commissioner, which deserves to be noticed here, reads as under :-

"I have considered the arguments advanced by the learned counsel for the parties and have also gone through the record. From the perusal of record, it stands proved that in the instant case respondent has more merits than the appellant for appointment of Lambardar, as his academic qualification is 10+1, where the appellant has only studied upto 8th standard and that the appellant only owns 24 kanals land, whereas the respondent owns 440 kanals land. Moreover, father of the appellant was dismissed from the post of Lambardar and he remained dismissed till his death and accordingly no preference can be given to the appellant. Besides this it is a settled law that choice of Collector for the appointment of Lambardar cannot be brushed aside until and unless the same suffers from any illegality or irregularity, but in the case in hand, the learned counsel for the appellant has failed to point out any such illegality or perversity, which may go to the root of the case. In these circumstances, I do not see any force in this appeal and as such the same stands dismissed."

7. During the course of hearing, learned counsel for respondent No.4 could not

point out any patent illegality or perversity in either of the above said orders passed by learned District Collector as well as learned Commissioner. It is the settled proposition of law that the choice of District Collector, in the matters of appointment of Lambardar, is not to be upset lightly by higher revenue authorities, unless the order passed by District Collector is found suffering from patently illegality and perversity.

8. So far as the offending part of the impugned order (Annexure P-7) passed by Financial Commission, referring to Rules 15(b) and 16(i)(c) of the Punjab Land Revenue Rules, is concerned, the Financial Commissioner misdirected himself, while completely misreading the true import of these rules. Rules 15(b) and 16(i)(c) of the Punjab Land Revenue Rules, read as under :-

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

xxx xxx xxx

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

16. Dismissal of headmen.-- (i) A headman shall be dismissed when--

xxx xxx xxx

(c) in any other estate he ceases to be a landowner in the estate or sub-division of the estate in respect of which he holds office."

9. A bare reading of the above said provisions of law would make it crystal clear that it is not the requirement of the law that the post of Lambardar is to be filled Patti-wise. In the present case itself, learned counsel for respondent No.4 has fairly conceded that although there are four Pattis in the village, but Lambardars are five. The object of Rule 15(b) was only to ensure that the candidate should possess the property in the estate so that in case he commits a default to deposit the land revenue collected by him, it can be recovered from such a Lambardar, as arrears of land revenue. In this regard, it is pertinent to note that land revenue stood abolished in both the States of Punjab and Haryana long back, thus, owning land by the candidates for the post of Lambardar, would not be of much significance any further.

10. So far as Rule 16 is concerned, it deals with the dismissal of Headman (Lambardar), which is not the case in hand. Having said that, this Court feels no hesitation to conclude that since the learned Financial Commission has exceeded his jurisdiction, while passing the impugned order, the same cannot be sustained, being an order without jurisdiction.

11. No other argument was raised.

12. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view

that the orders passed by learned District Collector as well as learned Commissioner were factually correct and legally justified. Accordingly, the impugned order dated 24.03.2015 (Annexure P-7) passed by Financial Commissioner is hereby set aside. Orders passed by District Collector and Commissioner, appointing the petitioner as Lambardar, are restored. The writ petition deserves to be accepted.

13. Resultantly, with the above said observations made, present writ petition stands allowed, however, with no order as to costs.