
(2016) 05 P&H CK 0273
In the Punjab And Haryana At Chandigarh
Case No : CWP 677 of 2006

Hardeep Singh

APPELLANT

Vs

Financial Commissioner, Appeals-II, Punjab and others

RESPONDENT

Date of Decision : 09-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Punjab Land Revenue (Lambardari) Rules, 1908 — Rule 16

Citation : (2016) 3 LawHerald 2099 : (2016) 4 RCRCivil 192

Hon'ble Judges : Mr. Paramjeet Singh Dhaliwal, J.

Bench : Single Bench

Advocate : Mr. Malkeet Singh, Advocate, for the Appellant; Mr. B.S. Cheema, DAG, Punjab, Mr. A.S. Tewatia, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Paramjeet Singh Dhaliwal, J.—Instant writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 08.11.2015 (Annexure P-3) passed by respondent No.1-Financial Commissioner, Appeals-II, Punjab whereby the orders dated 19.08.2003 (Annexure P-2) and 27.09.2002 (Annexure P-1) passed by respondent Nos.2 and 3, appointing the petitioner as Lambardar, have been set aside.

2. Brief facts of the case are that to fill up the vacancy caused on account of death of Niranjana Singh, Lambardar (SC) of village Neela Naloha, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of the proclamation, 6 candidates submitted their applications out of which 4 candidates including the petitioner and respondent No.4 were remained in fray. The Collector after appreciating the comparative merit of the candidates found petitioner-Hardeep Singh to be fit and suitable candidate and vide order dated 27.09.2002 (Annexure P-1), appointed him Lambardar (SC) of the village. Feeling aggrieved, respondent No.4 preferred appeal before respondent No.2-

Commissioner (Appeals), Jalandhar Division, Jalandhar which has been dismissed vide order dated 19.08.2003 (Annexure P-2). Being dissatisfied, respondent No.4 preferred revision before respondent No.1- Financial Commissioner, Appeals-II, Punjab which has been allowed and orders dated 27.09.2002 (Annexure P-1) and 19.08.2003 (Annexure P-2) passed by respondent Nos.3 and 2, respectively, have been set aside and respondent No.4 has been appointed as Lambardar, vide impugned order dated 08.11.2005 (Annexure P-3). Hence, this writ petition.

3. I have heard learned counsel for the parties and perused the record.

4. Learned counsel for the petitioner vehemently contended that the impugned order is result of misreading of records, therefore, not sustainable in the eyes of law. The petitioner is more meritorious than respondent No.4 and, therefore, he was rightly appointed as Lambardar by the Collector and choice of the Collector cannot be set aside lightly. Respondent No.4 did not place on record his qualification certificate of B.A before respondent No.3-Collector and produced the same before respondent No.2-Divisional Commissioner, who did not give any weightage to the qualification of respondent No.4. Respondent No.4 is not having any land in his name.

5. Per contra, learned State counsel and learned counsel for respondent No.4 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned order dated 08.11.2015 (Annexure P-3). Respondent No.4 being more qualified, is a better candidate for the post of the Lambardar. The choice of the Collector can be set aside, if there is illegality or perversity.

6. I have considered the rival contentions of learned counsel for the parties.

7. It is a well established principle that a person to be appointed on the post of Lambardar should be enjoying good reputation and unblemished image besides having personal influence in the locality. At the same time he should also be trustworthy; dedicated, a person of good character and ability having sincerity to duty and who could maintain the dignity of the office of Lambardar. Nothing adverse has been brought on record about these parameters against the petitioner who has been selected by the Collector, for the post of Lambardar. While selecting the candidate for the post of Lambardar, it is the Collector who has to weigh and judge the comparable qualifications of the rival candidates and it is he, who has to apply and make up his mind on the basis of record and arguments placed before him and finally deciding about the suitability of the candidates.

8. Perusal of the impugned order dated 08.11.2005 (Annexure P-3) reveals that respondent No.1-Financial Commissioner set aside the orders dated 19.08.2003 (Annexure P-2) and 27.09.2002 (Annexure P-1) passed by respondent Nos.2 and 3, respectively, only on the ground that respondent No.4 being a graduate, is more qualified than the petitioner. However, it is the case of the petitioner that the Collector after considering the comparable merits of candidates appointed him as Lambardar. It is worth-mentioning that the "Lambardari Rules" do not prescribe for any minimum educational qualifications for appointment of a

Lambardar under reserved category. Educational qualification is not a pre-requisite for appointment as Lambardar, under reserved category, under the rules. Therefore, a candidate having higher educational qualification alone does not deserve overriding preference while appointing Lambardar under reserved category. Perusal of the record also reveals that the petitioner is having land measuring 1 kanal 1 marla whereas respondent No.4 is not owner of any land.

9. Moreover, in view of law laid down by Hon"ble the Supreme Court of India in the case of Mahavir Singh v. Khiali Ram & others, 2009(3) SCC 439, Lila Ram v. Asa Ram, 1955 Lahore Law Times 29 followed by Division Bench of this Court in the case of Phool Kumar v. State of Haryana and others, 2010(2) RCR (Civil) 819, the choice of the District Collector cannot be lightly set aside.

10. In Mahavir Singh's case (supra) the Hon"ble Supreme Court of India has observed that there should be no interference with the choice made by the Collector in the matter of appointment of Lambardar even if two views are possible. It is only the prerogative of the Collector to compare the merits of the candidates for appointment to the post of Lambardar.

11. Taking all these factors into consideration and as a sequel of above discussion, the writ petition is allowed and the impugned order dated 08.11.2005 (Annexure P-3) is hereby quashed. The orders dated 27.09.2002 (Annexure P-1) and 19.08.2003 (Annexure P-2), appointing the petitioner as Lambardar, are restored with immediate effect, with no order as to costs.