

(2013) 02 P&H CK 0042
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 771 of 2012 (O and M)

Harjinder Pal

APPELLANT

Vs

Financial Commissioner Cooperation and Others

RESPONDENT

Date of Decision : 11-02-2013

Acts Referred:

Citation : (2013) 3 RCR(Civil) 835

Hon'ble Judges : Rekha Mittal, J;Rajive Bhalla, J

Bench : Division Bench

Advocate : R.S. Chauha, for the Appellant; Rajinder Goyal, Addl. A.G., Punjab for the Respondent Nos. 1 and 2 and Mr. R.S. Athwal, Advocate for the Respondent No. 3, for the Respondent

Final Decision : Dismissed

Judgement

Rekha Mittal, J.—The appellant prays for setting aside order dated 19.03.2012, dismissing his writ petition, whereby he has challenged the appointment of respondent No. 3-Shingara, as Lambardar of village Samrari, Tehsil Phillaur, District Jalandhar. Counsel for the appellant submits that respondent No. 3 was appointed as Lambardar by the Collector, Jalandhar, but the Commissioner, Jalandhar Division, Jalandhar, set aside the order of the Collector, Jalandhar, and held in favour of the appellant. It is further argued that the Financial Commissioner, without pointing out any error much less illegality in the order of the Commissioner, set aside the order and upheld the order passed by the Collector, Jalandhar. According to counsel, the Financial Commissioner wrongly rejected the claim of the appellant taking into consideration that the appellant was allotted a booth, being a handicapped person. He has argued with vehemence that a slight handicap of the appellant should not be allowed to stand in his way of being appointed as Lambardar of the village, when otherwise, he is better meritorious as compared to the selected candidate.

2. Counsel for respondent No. 3 has submitted that the Commissioner, Jalandhar Division, Jalandhar, without finding any illegality or perversity in the order of the

Collector, set aside the same and substituted his decision in selecting the appellant by holding that he is more suitable and better candidate. It is further argued that the Financial Commissioner rectified error committed by the Commissioner and affirmed the order passed by the Collector, which has been further upheld by the learned Single Judge.

3. We have heard counsel for the parties, perused the records and find no reason to interfere in the order passed by the learned Single Judge. The Collector, on appraisal of the merits and demerits of the parties, found respondent No. 3 to be a better choice for appointing him as Lambardar of the village. The Commissioner, Jalandhar Division, Jalandhar, did not point out any illegality or infirmity in the order of the Collector, Jalandhar, but still decided to set aside the same and thereafter, proceeded to record a finding that the appellant is a better candidate. The Commissioner may be right in his observation that the appellant being a handicapped person deserves to be encouraged but as the Collector, Jalandhar, has not rejected the claim of the appellant on the ground of his being handicapped, the Commissioner has committed an error to set aside the order of the Collector. The Financial Commissioner has examined, in detail, the orders passed by the Collector, Jalandhar, and the Commissioner as well as the merits of the parties and decided in favour of respondent No. 3. Neither the Collector, Jalandhar, nor the Financial Commissioner have held either in favour of the appellant or against him, in view of his being a handicapped person. There is nothing on record suggestive of the fact that the appellant has been victimized being a handicapped person. The order passed by the Collector is primarily administrative in nature. The choice of the Collector is to be honoured until it suffers from illegality, perversity or violative of any statutory provision. The Financial Commissioner has rightly set aside the order of the Commissioner and upheld the order of the Collector. Counsel for the appellant has failed to convince that the order passed by the Collector, the Financial Commissioner and affirmed by the learned Single Judge suffer from any error of jurisdiction or of law as would call for interference.

In view of what has been discussed hereinabove, the appeal is dismissed. No order as to costs.