

(2014) 11 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 17687 of 2014

Major Singh

APPELLANT

Vs

Financial Commissioner Revenue Punjab and Others

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Citation : (2015) 1 RCR(Civil) 892

Hon'ble Judges : Rajan Gupta, J

Bench : Single Bench

Advocate : K.S. Sidhu, Advocates for the Appellant; Suresh Singla, Addl. A.G, Advocates for the Respondent

Judgement

Rajan Gupta, J.—Instant petition has been filed for issuance of writ in the nature of certiorari for quashing of order dated 04.03.2014 passed by Financial Commissioner upholding the orders dated 06.06.2011 & 08.01.2013 passed by Collector & Commissioner whereby respondent No. 4 was appointed as Lambardar of the village. Learned counsel for the petitioner vehemently contends that petitioner was initially chosen by the Collector. After matter was remanded by the higher authority, he came to a different conclusion. However, no reason has been assigned for taking a different view while adjudging suitability of candidates.

2. Learned counsel for the respondent No. 4 has vehemently opposed the plea. According to him, there is sufficient material on record to show that respondent No. 4 is more suitable. It is purely on the basis of merit that authorities had now found respondent No. 4 better candidate for the post of lambardar. He contends that there is no bar for the higher revenue authority to interfere in the choice of the Collector in the facts and circumstances of given case.

Heard.

3. Brief factual background of the case is that after death of Lambardar of village Khippanwali, Tehsil Fazilka, process for fresh appointment was initiated. After

considering comparative merits of candidates, Collector vide his order dated 31.05.2010 appointed petitioner as Lambardar. Respondent No. 4 preferred appeal before Commissioner, Ferozepur Division. He vide his order dated 31.03.2011 set-aside the order of Collector and remanded the matter to him and to reconsider the relative merit of both the candidates. Consequently, matter was reconsidered by the Collector. After considering rival contentions, Collector vide his order dated 06.06.2011 appointed respondent No. 4 as Lambardar of village. Petitioner filed appeal before Commissioner, Ferozepur Division. Same was, however, dismissed on 08.01.2013. Dissatisfied, he filed a revision before the Financial Commissioner but remained unsuccessful. Aggrieved, present petition has been filed. I am of the considered view that order appointing respondent No. 4 as Lambardar is unsustainable. At the initial stage, Collector considered relative merit of candidates. After considering the same, he found that petitioner was better educated and had more land. At that time, respondent No. 4 was a defaulter of Co-operative Agricultural Bank, Abohar. There is no reason forthcoming on record for Collector to have formed a different view on the basis of same material. According to judgment of the apex court in Mahavir Singh Vs. Khiali Ram and Others, normally preference has to be given to choice of Collector. In the instant case, Collector reconsidered suitability of candidates in view of remand order. However, no cogent reason has been given for coming to different conclusion regarding suitability of candidates. Plea of the petitioner, thus, merits acceptance. Impugned orders Annexure P4, P5 & P6 are hereby set-aside. Petitioner will be entitled to continue as Lambardar of the village.

Petition is allowed in these terms.