

(2004) 01 P&H CK 0054
In the Punjab And Haryana At Chandigarh
Case No : ROA No. 50 of 2003

Mohinder Singh

APPELLANT

Vs

Harnek Singh

RESPONDENT

Date of Decision : 19-01-2004

Acts Referred:

Citation : (2004) 2 LJR 242 : (2004) 2 RCR(Civil) 235

Hon'ble Judges : J.S.Kesar, FC.

Advocate : Sh. R.S. Chauhan, Advocate., Advocates for appearing Parties

Judgement

J.S. Kesar, FC.

1. This appeal has been filed under Section 13 of the Punjab Land Revenue Act, 1887 against order dated 7.10.2003 passed by the Commissioner, Jalandhar Division, Jalandhar vide which he set aside the order dated 24.6.2003 of the District Collector, Kapurthala.

2. The brief facts of the case are that on the death of Pritam Singh, lambardar of village Mohke, the process to fill up the vacancy was initiated. In response to the proclamation, 13 candidates applied for the post. The Assistant Collector 2nd Grade, Sultanpur Lodhi recommended the name of Mohinder Singh whereas the SubDivisional Magistrate, Sultanpur Lodhi first recommended the name of Mohinder Singh s/o deceased lambardar for appointment as lambardar. However on remand by the Collector, the SubDivisional Magistrate vide his recommendation dated 10.3.2003 recommended the name of Harnek Singh for appointment as lambardar. This recommendation was made on the basis of better merits of Harnek Singh as compared to Mohinder Singh. Before the Collector, Kapurthala only three candidates namely Harnek Singh, Mohinder Singh and Kuldeep Singh appeared. On the basis of comparative merits, the Collector appointed Mohinder Singh as lambardar vide his order dated 24.6.2003. The order was challenged by Harnek Singh before the Commissioner, Jalandhar Division, Jalandhar who accepted the appeal and vide impugned order dated 7.10.2003 and appointed Harnek Singh as lambardar, necessitating the present

appeal by Mohinder Singh.

3. I have heard the learned counsel for both the parties. The learned counsel for the appellant Mohinder Singh has argued that the learned Commissioner did not find any perversity in the order of the Collector and there was no solid ground before him to set aside the order of the Collector who is the final and competent authority for the appointment of lambardar. The learned counsel has cited 2001 RCR 520, in which it has been held that for the appointment of lambardar, the Collector is the final authority and the appointment made by the Collector in concurrence with the recommendations of the Assistant Collector 2nd Grade and the SubDivisional Magistrate, after considering the comparative merits, cannot be upset by the Commissioner on the basis of observation that the other candidate is a better candidate. Further, the learned counsel has taken the support from the principle laid down in 2002(2) PLR 469 to the effect that the choice of the Collector is to be final and need not be interfered with. The learned counsel has further drawn attention of this court to the fact that as far as the age and qualifications are concerned, both the candidates are, by and large, at par, but Mohinder Singh has distinct advantage of owning more land than Harnek Singh and also being the son of the deceased lambardar, has hereditary claim. He has also pointed out that the Commissioner, in para 3 of his order, has referred to a certificate by an M.P. in favour of the appellant which indicates that he has been politically influenced which goes against the respondent. He has, therefore, pleaded for the acceptance of appeal and for setting aside the impugned order of the Commissioner, Jalandhar Division.

4. On the other hand, the learned counsel for the respondent has argued that the hereditary claim has been held to ultra vires vide ruling cited as 1973 PLJ 677. However, the land holding is not a major factor for deciding such cases, as held in 1998(2) PLR 428, in view of the fact that the land revenue in the State has since been abolished. The ownership of the land is merely to fulfil the requirement of the Rules and not as a guarantee against the payment of land revenue. He has drawn attention of this court to para 10 of the order of the Collector which refers to the distinct merits of respondent Harnek Singh. The respondent is a social worker and takes part in the social activities. He is acquainted with the duties of lambardar. He has passed NCC examination and is a progressive dairy farmer. He has better educational qualification and hence, there is no perversity attached to the order of the learned Commissioner which is required to be upheld.

5. I have considered the arguments advanced by the learned counsels and have gone through the relevant record. As far as the age and qualification are concerned, both the candidates, by and large, are at par. Both of them have sufficient land, though the sufficiency of land, otherwise, is not much relevant in view of the fact that the land revenue in the State has since been abolished. So far as the recommendation of an M.P. is concerned, I have seen the certificate issued by the Hon'ble Member of Parliament. He has only certified that Harnek

Singh, respondent is a social worker and has not made any recommendations to the Commissioner. After taking the totality of the facts into consideration. I find no ground to interfere with the order of the Commissioner and the same is upheld and the appeal is, accordingly dismissed.

Announced.