
(1982) 11 P&H CK 0066
In the Punjab And Haryana At Chandigarh
Case No : R.O.A. No. 15 of 1978-79

Nand Lal	Vs	APPELLANT
Guranditta		RESPONDENT

Date of Decision : 03-11-1982

Acts Referred:

Citation : (1983) PLJ 78 : (1986) RRR 459

Hon'ble Judges : K.S.Narang, F.C.

Advocate : S.C. Khungar, Advocate, N.L. Dhingra, Advocate., Advocates for appearing Parties

Judgement

K.S. Narang, F.C.

1. This is an appeal from Nand Lal against the order dated 16.12.1978 of the Additional Commissioner, Ferozepur Division, accepting the appeal of Guranditta, respondent No. 1, against the order dated 29.9.1975 of the Collector, Ferozepur, who appointed Nand Lal as lambardar of village Mohammad Pira, Tehsil Fazilka.
2. Facts of the case are that the post of lambardar of village Mohammad Pira, fell vacant on account of the death of Lal Singh, Lambardar. In response to the proclamation made in the village the post was contested by Kala Singh, Hakam Singh, Raghu Nath Rai, Machhi Ram, Ram Pal, Ram Singh, Nand Lal and Guranditta. Only Kala Singh, Hakam Singh, Nand Lal and Guranditta remained in the field as the remaining four candidates withdrew from the contest. After considering their claims, Tehsildar and S.D.O. (Civil) recommended Nand Lal to the Collector who after considering the merits of the candidates, appointed Guranditta as a lambardar of the village by his order dated 30.4.1974. Aggrieved from this order, Nand Lal filed an appeal before the Commissioner, who, without disposing the case on merits, by his order dated 19.2.1975 remanded the case to the Collector for a fresh decision. On remand, the Collector examined the claims and merits of each candidate and by his order dated 29.9.1975 preferred Nand Lal for the office of lambardar of village. He rejected outright the candidatures of Kala Singh and Hakam Singh as they did not own

land, considered sufficient to serve as a security for the total revenue of the village, amounting to Rs. 15,000/-. Inter alia he also rejected the claim of Hakam Singh, who staked his claim as the nephew of the deceased lambardar, under the rule of primogenit and on the basis of his having already worked as lambardar. Against the order of the Collector, Guranditta and Hakam Singh filed two separate appeals before the Additional Collector, Ferozepur, who by his order dated 16.12.1978 rejected the appeal of Hakam Singh and accepted the appeal of Guranditta, appointing him as Lambardar of the village. It is against this order that Nand Lal has now filed this appeal.

3. I have heard the learned counsel for the parties and gone through the record carefully. The main contentions of the counsel for the appellant are that Nand Lal is not an absentee from the village; he has a house in the village and was a voter in the years 1979 and 1980; besides owning land measuring 23 kanals 5 marlas in village Bada, in the municipal limits of Fazilka Town; that the appellant was an exSarpanch and member of Block Samiti and had even worked as a temporary lambardar; that he belongs to Arora community which held 60% land in the village and that he was only a sleeping partner in a Commission Agent Shop at Fazilka, which was closed in August 1980 and lastly that four candidates had withdrawn from the contest in his favour. Shri Dhingra has also emphasised that Collector, by his order dated 29.9.1975, after taking an objective and judicious view had picked up Nand Lal as the best and most suitable candidate suiting the interest of administration and his choice should not have been interfered with by the Additional Commissioner in the first instance and the basis on which the case was remanded was found to be without substance. He has cited 1979 PLJ 578 Re: Bishan Singh v. Gurbachan Singh and others , in support of his case.

4. Shri Khungar, counsel for Guranditta on the other hand, maintains that the order dated 29.9.1975 of the Collector has lost its significance by the wellreasoned order of the Commissioner dated 16.12.1978 in which he has dealt with relative merits of both the candidates threadbare. He has stressed that Guranditta, in all respects, has preferential claim over Nand Lal as he is the resident of the village, holding unencumbered land 102 kanals 10 marlas; belongs to Rai Sikh majority community; is younger in age while Nand Lal is not resident of the village, runs a Commission Agent Shop at Fazilka, does not hold any ration card in the village and is registered as a voter also in Fazilka. He has also pointed out that out of his total holding of 160 Kanals 16 marlas. Nand Lal had hypothecated 138 kanals 7 marlas to the Government and that while Nand Lal belonged to Arora community holding 60% of the land in the village, it was the Rai Sikhs who constituted the majority of the population of the village. He has cited 1980 PLJ 299 Re. Gujjar Singh v. Karam Chand etc., in which the Financial Commissioner, Haryana, has held that the choice of the Collector, even upheld by the Commissioner, could be set aside by the Financial Commissioner where the choice was found to be perverse in the ultimate interest of justice. The learned Financial Commissioner also inter alia held that a candidate whose major interest was entirely that of a landlord because the interest of Arhatias was not

always in consonance with the interest of the agricultural producers. He had also held that if a candidate lived both in the village and the town, he is to be preferred only if no other suitable person was found suitable and available in the village.

5. Nand Lal admittedly owns less land in the village for which lambardar is to be appointed. He may be having influence on account of having worked as a Sarpanch and a Member of Block Samiti but he is nonresident, having property in the municipal limits of Fazilka worth lakhs of rupees. His name in the voters list of Vidhan Sabha Voters List for the years 1979 and 1980 showing him as a voter in the village is not conclusive proof of being a wholetime resident of the village. It has been the un rebutted contention of Guranditta that Nand Lal and the members of his family have been the voters at Fazilka. Also, there is little force in the contention of Nand Lal that since the Arora community owns 60% of land in the village, it should be treated to be the major community as against the Rai Sikha who constitute 60% of the village population. If some of the candidates initially withdrew even in favour of the Nand Lal, it cannot be deemed to be qualification as these things can be easily manoeuvred by a clever and influential person.

6. I am of the confirmed view that the office of the lambardar is not as ornamental or a decorative institution in the set up of village administration. Lambardar has to be appointed after considering inter alia not only the personal merits of each candidate but also keeping in view his effectiveness, his ability and availability for the proper performance of the duties of the office. Further while the choice of the Collector should not be interfered with in appeal or in revision but wherever the choice has been exercised blatantly against the land Revenue Rules and has not been exercised in the best public interest which would not apparently command the confidence of the village community, the higher Revenue Officer cannot but feel compelled to interfere in the larger interest of justice and good administration.

7. For the reasons given above, the appeal has no force and is hereby dismissed.

To be communicated.