(2013) 04 P&H CK 0155

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 8325 of 2013

Pardeep Singh APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 22-04-2013

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2013) 171 PLR 245

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : Sandeep Goyal, for the Appellant; Bhoop Singh for Caveator-Respondent No. 7, for the Respondent

Final Decision : Dismissed

Judgement

Rameshwar Singh Malik, J.—The present writ petition is directed against the order dated 20.11.2012 (Annexure P-6) passed by the Financial Commissioner, Haryana, thereby remanding the matter back for conducting fresh proclamation, inviting applications from the eligible candidates, for appointment to the post of Lambardar. Brief facts of the case are that consequent upon the death of late Shri Satpal, Lambardar, one post of Lambardar fell vacant in the village of the parties. Proceedings were initiated to fill up this post.

Assistant Collector, 2nd Grade-cum-Naib Tehsildar, Bass, recommended the name of respondent No. 7. However, the case was remanded back by Tehsildar, Hansi, for fresh proclamation on the ground that the person, who was recommended, had applied for the post after the last date given in the proclamation. Dissatisfied, petitioner filed his appeal before the Collector, Hansi, who set aside the order of Tehsildar Hansi, directing the Naib Tehsildar to proceed further on the basis of proclamation already made. The order dated 14.1.2011 passed by the Asstt. Collector, 1st Grade, Hansi was challenged by respondent No. 7 by way of an appeal, which was rejected vide order dated 19.4.2011 (Annexure P-4) passed by District Collector. Respondent No. 7 approached the Commissioner, Hisar Division, who also did not agree and dismiss the revision of respondent No. 7 vide order dated 30.8.2011 (Annexure P-5). The order passed by the Commissioner, Hisar Division, was challenged by respondent No. 7 before the Financial Commissioner, who set aside the orders passed by the lower revenue authorities, while upholding the order passed by the Tehsildar Hansi, directing him to get conducted a fresh proclamation for inviting applications from the eligible persons.

2. Feeling aggrieved against the above-said impugned order dated 20.11.2012 (Annexure P-6) passed by the Financial Commissioner, petitioner has approached this Court by way of instant writ petition seeking a writ in the nature of certiorari for quashing the impugned order. That is how, this Court is seized of the matter.

3. Learned counsel for the petitioner submits that proper proclamation was conducted in the village. Many persons applied but respondent No. 7 did not apply in time. He further submits that the Financial Commissioner has committed serious error of law, while passing the impugned order thereby remanding the matter for fresh proclamation, which will unnecessary delay the proceedings. He finally prays for setting aside the impugned order by allowing the present writ petition.

4. Having heard the learned counsel for the petitioner, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that the instant one is not a fit case warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226 /227 of the Constitution of India. To say so, reasons are more than one, which are being recorded hereinafter.

5. A combined reading of the orders passed by the respondent-revenue authorities would show that the Financial Commissioner committed no error of law while passing the impugned order. It has gone undisputed that respondent No. 7 was working as Sar-barah Lambardar and informed the authorities about the death of Lambardar, who happened to be his father. However, it was the specifically pleaded case of respondent No. 7 that had there been a proper proclamation in the village, he would have certainly applied for the post of Lambardar.

6. Considering this material aspect of the matter, the Financial Commissioner has rightly set aside the orders passed by the Collector and Commissioner upholding the order passed by the Tehsildar, Hansi thereby remanding the matter back for fresh proclamation so as to ensure that there should be a healthy contest amongst the eligible candidates and no eligible candidate should be denied the opportunity of being considered. Having said that, this Court feels no hesitation to conclude that the Financial Commissioner has not committed any error of law while passing the impugned order which deserves to be upheld.

7. Strong opposition of the petitioner against fresh proclamation shows that the petitioner was trying to avoid healthy contest for the reasons best known to him.

It is the allegation against the petitioner that he was all alone in the fray because other candidates were his own dummy candidates. The question is whether such an impression should be given to the general public. The answer is and has to be an emphatic no. The reason is simple but obvious that proceedings are supposed to be conducted in fair and transparent manner.

8. Every eligible candidate is entitled for an opportunity to contest. It prima facie seems that the petitioner has colluded with the concerned official(s), who conducted the proclamation, if any, in a clandestine manner so as to ensure that there would be no contest and petitioner would be appointed as Lambardar. Such an unhealthy practice is not permissible in law. Considering the case in this background, it is unhesitatingly held that the Financial Commissioner has passed a well reasoned and justified order, which does not call for any interference at the hands of this Court.

9. During the course of arguments, learned counsel for the petitioner could not point any patent illegality or perversity in the impugned order passed by the Financial Commissioner. If the order passed by the Financial Commissioner is not allowed to operate, many eligible candidates like respondent No. 7 would be ousted from the zone of consideration without there being any fault on their part. Further, no prejudice has been shown to have been caused to the petitioner as he would also be entitled to apply afresh in response to the fresh proclamation. Thus, the impugned order passed by the Financial Commissioner is held to be factually correct and legally justified.

10. No other argument was raised. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present writ petition is misconceived, devoid of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, the instant writ petition stands dismissed.