
(2014) 05 P&H CK 0683
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 23658 of 2012

Sher Singh

APPELLANT

Vs

Financial Commissioner

RESPONDENT

Date of Decision : 15-05-2014

Acts Referred:

Citation : (2014) 4 RCR(Civil) 406

Hon'ble Judges : Rajan Gupta, J

Bench : Single Bench

Advocate : Amarjit Markan, Advocate for the Appellant; V. Ramswaroop, Addl. A.G. and Sherry K. Singla, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Rajan Gupta, J.—Due to death of Lambardar of village Islampur, Tehsil Rajpura, District Patiala, proclamation was made for filling up the vacant post. In response, two applications were received. Naib Tehsildar and Tehsildar recommended name of the petitioner for the post. Collector accepted the recommendations and appointed petitioner as Lambardar. Appointment of petitioner was challenged by respondent No. 4 before the Commissioner, Patiala Division who accepted the appeal and directed that fresh proclamation be issued for inviting applications from eligible persons for appointment to the post of Lambardar. Operative part of the order reads as under:--

"I find that the allegation leveled by the present appellant regarding that only those persons had deposed in favour of present respondent, who had signed the proclamation notice issued by Patwari appears to be true. The perusal of the record shows that the statements of eight persons have been recorded in favour of respondent by AC IInd Grade on 22.8.2005. One more proclamation notice was placed on file having rapat No. 622 dated 26.5.2005. But why this was not issued and why it was not signed by any of the person, is not indicated. As stated above, in my opinion, it is necessary to ensure the credibility of the system while making proclamation in the village to fill up the vacancy of

Lambardar. So far as the merits of the appointed candidate is concerned, I would not like to go into the details of the same as in my opinion the proclamation made in the village was not proper. Although it can be argued that the present appellant has no locus standi to file an appeal as he had not applied in time but as indicated above if the same persons have deposed in favour of the respondent, who had signed the proclamation notice, it gives a sufficient ground for suspicion about the procedure followed in making the proclamation in village for inviting the applications for the above post. In view of this, appeal filed against the order dated 27.12.2005 of the District Collector, Patiala is hereby accepted. A fresh proclamation be made in the village as per the procedure for inviting applications for the above post from eligible persons. The present respondent, if desire, can also file his application for the above post."

Aforesaid order was unsuccessfully challenged before the Financial Commissioner, Punjab. Aggrieved, present petition has been filed. Petitioner has relied upon judgment delivered by this court in Bhag Singh v. Financial Commissioner (Revenue), Haryana, 2001 (1) R.C.R. (Civil) 9. I am, however, of the view that said judgment can be of no help to the petitioner. In the instant case, serious defect has been found with the proclamation process. Wider choice was, thus, not available to the authority at the time of selection. A perusal of order passed by Collector shows that he merely accepted the recommendation of the lower revenue officials without considering their relative merits. It is evident that in the absence of proper proclamation, number of applications would be less leaving narrow choice for the Collector to appoint a suitable person. After process for filling up post of this nature is initiated, due proclamation is necessary. (See Hoshiar Singh Vs. Financial Commissioner (Revenue) and Others, In case residents of the village are oblivious of the fact that process for filling up the vacant post of Lambardar has been initiated, they cannot be expected to apply for the post. In such circumstances, appointment would be vitiated. Admittedly, in the instant case only two applications were received and the Collector merely accepted recommendations of the lower revenue officials and appointed the petitioner. Under the circumstances, I find no ground to interfere in the impugned order. Writ petition is without any merit and is hereby dismissed.