

(2012) 08 P&H CK 0145

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 18688 of 2010

Jai Parkash

APPELLANT

Vs

Financial
Commissioner
Revenue, Haryana and
others

RESPONDENT

Date of Decision: Aug. 21, 2012

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: Sumit Sanghwan, for the Appellant; Kirti Singh, DAG Haryana for respondents
No. 1 to 3 and Mr. S.N. Yadav, Advocate, for the Respondent

Judgement

Ranjit Singh, J.

The process to appoint Lambardar of Village Janti, Tehsil and District Rewari was initiated in the year 2003. The Collector, Rewari appointed Subhash Chand - respondent No. 4 as Lambardar on 23.12.2003. While doing so, he apparently ignored all the merits standing in favour of the petitioner. The Collector also ignored the serious misconduct on the part of respondent No. 4 and making mis-statement concerning his educational qualification, illegal possession and being defaulter of the Bank. The petitioner filed an appeal before the Commissioner who remanded the case to the Collector with a direction to verify the facts in regard to mis-statement by respondent No. 4. The Assistant Collect IInd Grade then recommended the present petitioner for the post of Lambardar and found respondent No. 4 to be unsuitable. The Assistant Collector Ist Grade also found that respondent No. 4 had supplied wrong information about his educational qualification and also verified that the petitioner is M.A. B.Ed. and was not working as teacher. He was thus found more suitable. The Authorities in chain again recommended the name of respondent No. 4 ignoring his demerits. The Collector then appointed respondent No. 4-Subhash Chand again as Lambardar on 12.09.2007.

2. The petitioner appealed against this order on the ground that the choice of the Authorities was totally perverse as he had ignored all the relevant considerations and had taken into account various factors which were irrelevant. The Commissioner dismissed the appeal on 16.03.2009. The Financial Commissioner had also dismissed the revision petition on 24.05.2010.

3. When this case came up for hearing on 04.08.2011, this Court after considering the facts of this case choose to express serious concern on the appointment of respondent No. 4 as Lambardar by ignoring various relevant considerations, as can be seen from the order passed on this date:

Prima facie, it appears strange as to how respondent No. 4 has been given preference over and above the petitioner, over-looking the fact that the petitioner was 42 years old; he is M.A. B.Ed.; he was not working as a School Teacher; he is son of an ex-army personnel, his brothers are serving in CRPF; he owns 6 kanals of agricultural land; he contributed a lot in small saving scheme, family planning programme, water shed programme and also donated money for the development of the village. As compared to this, respondent No. 4 in his application form is alleged to have claimed himself to be "matriculate" and nephew of deceased Lambardar who was statedly his real uncle (Tau). Both these facts were found incorrect and he took a plea that these averments were made by "mistake". Respondent No. 4 is under bank debt and is only 9th class pass and no proof that he was working as Sarbrah Lambardar, yet he has been preferred by the Authorities over and above the petitioner. What could be the reason? However, before answering the same, let the learned State Counsel to produce the original records including the application forms of the petitioner as well as respondent No. 4.

4. It is thus noticed that the petitioner is 42 years old, he is M.A. B.Ed. The allegation that he is working as school teacher is also not found correct. The petitioner is a son of an ex-army man. His brothers are serving in CRPF. He owns agricultural land as well. The petitioner has also contributed a lot in small saving scheme, family planning programme, water shed programme and has donated money for the development of the village.

5. On the other hand respondent No. 4 who had been appointed as Lambadar is found to have made various mis statements in his application. He claimed to be matriculate and nephew of deceased Lambardar claiming that the deceased Lambardar was his real uncle (Tau). Both these assertions were found fake. When confronted with this, respondent No. 4 took a stand that these averments were made by "mistake". What a mistake and what a easy way to explain this serious falsehood. Respondent No. 4 was also under bank debt and was only 9th class pass. He also could not produce any proof that he was working as Sarbrah Lambardar. Despite all this, Collector has preferred him for appointment and Commissioner and Financial Commissioner have also been more than generous to him to ignore these serious misleading stand of respondent No. 4. There is virtually no explanation

available or forthcoming except the very obvious one that respondent No. 4 had some sponsor who has been able to overlord the judgments of quasi judicial authorities.

6. There is thus not much reason to wonder as regard the surprise expressed by the Court. The Court had called for the original record. The record does not make any one wise as to why respondent No. 4 was preferred over the well qualified and educated petitioner except that he was stated to be employed as teacher. That could not have been a justification to reject the claim of the petitioner and to prefer respondent No. 4 who was carrying serious infirmities of having based his claim on falsehood. The Collector, Commissioner and Financial Commission have apparently failed to do their duties in a fair, reasonable and just manner. How could they all have ignored the serious mis-statement on the part of respondent No. 4 and appoint him by ignoring the claim of the petitioner, has no explanation. I say nothing more than this but certainly can not accept this unfair, unjust and illegal approach of Collector, Commissioner and Financial Commissioner. The appointment of respondent No. 4 can not be sustained. The Collector as well as Commissioner and Financial Commissioner have totally ignored relevant material which they were required to consider in regard to merits of the petitioner and have purposely or otherwise glossed over the serious infirmities and dis-qualification of respondent No. 4 while appointing him as Lambardar. The appointment of respondent No. 4 as Lambardar, therefore, must go. The pleas made by counsel for respondent No. 4 would not justify the irrelevant and illegal appointment made by all the authorities in chain. The impugned order is set aside. The orders passed by the Commissioner and the Financial Commissioner are also set aside. The directions are hereby issued to the Collector to initiate a fresh process for appointment of Lambardar after inviting applications afresh. Since respondent No. 4 is found to have resorted to falsehood, it would be appropriate to exclude him from the zone of consideration lest he again finds his way through the wheels which he might have used earlier which will be nothing short of legalising the illegalities. The present writ petition is disposed of accordingly.