

(2012) 02 P&H CK 0295

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 16878 of 2010

Manjit Singh

APPELLANT

Vs

Financial Commissioner

RESPONDENT

(Appeals-1) Punjab and Others

Date of Decision: Feb. 2, 2012

Citation: (2013) 2 RCR(Civil) 368

Hon'ble Judges: Paramjeet Singh, J

Bench: Single Bench

Advocate: S.C. Chhabra, for the Appellant; Bhagwant Kishore Gupta, D.A.G., Punjab and Mr. S.P.S. Tinna, Advocate for the Respondent No. 4, for the Respondent

Final Decision: Allowed

Judgement

Paramjeet Singh, J.

The instant writ petition has been filed for quashing of the order dated 07.08.2008 (Annexure P-6) passed by the Financial Commissioner and order dated 18.01.2008 (Annexure P-5) passed by the Commissioner and order dated 24.04.2007 (Annexure P-4) passed by the Collector whereby, Jagjit Singh (respondent No. 4) has been appointed as Lambardar of Village Jhurar Khera, Tehsil Abohar, District Ferozepur. Brief facts of the case are that due to death of Surain Singh previous Lambardar, the father of the petitioner, post of Lambardar fell vacant. After seeking approval from the competent authority, proclamation was made inviting applications for filling up the said post. In pursuance to the proclamation, 18 candidates submitted their applications. Verification of character and antecedents of the candidates was got done. Five persons namely Jagjit Singh (respondent No. 4), Jarnail Singh, Baj Singh, Manjit Singh (petitioner) and Mukhtiar Singh appeared before the Tehsildar. Tehsildar recommended the name of Jagjit Singh, to the SDM who also endorsed the recommendation of the Naib Tehsildar and the case was sent to the District Collector. The District Collector, after appreciating the merits of the candidates, appointed Jagjit Singh as Lambardar of Village Jhurar Khera, Tehsil Abohar, ignoring

the claim of the petitioner on the ground that the petitioner was a defaulter of the bank when the applications were invited. Criminal case was registered against Mukhtar Singh because of which he was found not suitable. Manjit Singh (petitioner) preferred appeal before the Commissioner that has been dismissed on the ground that the petitioner is a defaulter. The revision petition's filed by the petitioner and two others namely Mukhtiar Singh and Baj Singh were dismissed. Hence, this writ petition.

2. I have heard the learned counsel for the parties and perused the impugned orders and record of the case.

3. The main contention of the learned counsel for the petitioner is that the petitioner has been ignored on the ground that he was a defaulter of Punjab Agricultural Development Bank on the date of application whereas, in fact he has already paid the entire loan amount before the appointment. Otherwise also, loan was taken for agricultural purposes and it cannot be taken as a ground to discard the candidature of the petitioner. He further states that the petitioner has otherwise sufficient qualifications and is also the son of the previous Lambardar. He had been attending to the government officials during the tenure of his father.

4. Learned counsel for respondent No. 4 has opposed the contention of the petitioner and has vehemently argued that the order passed by the Collector, Commissioner and the Financial Commissioner cannot be set aside at this stage and case cannot be remanded back. I have considered the rival contention of the parties. I am of the definite view that the candidature of the petitioner has only been discarded on the ground that he was a defaulter of the bank on the date of filing the application and no defaulter can be appointed as a Lambardar. As per the settled law, the relevant date for such consideration is the date of appointment. This fact has been held in a number of authorities by this Court as well as the Hon'ble Apex Court wherein, the relevant date has been held to be the date of appointment by the Collector. Learned counsel for the petitioner has brought to the notice of this Court that the petitioner was not a defaulter of the bank on the date of appointment as he had already paid the entire loan amount. Otherwise also, this was agricultural loan and not a commercial transaction. For the purposes of development of agriculture, such loans are generally being taken by the farmers. Some time delay occurs in payment of loan amount due to failure of crops; due to natural calamities or otherwise non-availability of water etc. I am in agreement with the learned counsel for the petitioner. Accordingly, I set aside the impugned orders passed by the Collector, Commissioner and the Financial Commissioner and remit the case back to the Collector for reconsideration. The Collector will re-appreciate whether on the date of appointment the petitioner was a defaulter. If he was not defaulter on the date then the Collector will decide the appointment of Lambardar after appreciating the comparative merit of the contesting candidates. The parties through their counsel are directed to appear before the Collector on 30.03.2012. The Collector is

directed to decide the same within six months from the receipt of certified copy of the this order. Till then, respondent No. 4 will be allowed to continue as Lambardar of the Village. It is further made clear that the experience gained by Manjit Singh during the intervening period will not be taken into account for deciding the appointment of Lambardar.

The writ petition stands allowed accordingly.

No order as to costs.