Raj Kumar Vs Financial Commissioner, Haryana, Chandigarh and others

Civil Writ Petition No. 22189 of 2010

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 17, 2012

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: Bikram Chaudhary, for the Appellant; Kirti Singh, DAG, Haryana for the State and Mr. Kul Bhushan Sharma, Advocate, for the Respondent

Judgement

Ranjit Singh, J.

The Collector appointed petitioner as Lambardar of the village. This order was upheld by the Commissioner. The Financial

Commissioner, however, chose to interfere with this order on the ground that the merits of the candidates were not properly discussed. Counsel

for the petitioner would submit that the Financial Commissioner could not have interfered with the choice exercised by the Collector unless the

same was found to be perverse and arbitrary in any manner. Without recording any such finding, the choice is illegal or perverse, the Financial

Commissioner has interfered with the same.

2. Earlier, in the year 2004, the Collector had appointed respondent No. 4 as Lambardar but this appointment was set aside by the Commissioner

or an appeal filed by the petitioner. The order become final as it was not challenged by respondent No. 4. Thus, the earlier appointment of

respondent No. 4 would not have any material bearing on the case.

3. It is now to be seen if the Financial Commissioner has rightly and legally interfered with the choice exercised by the collector or not. This

apparently is beyond the parameters and sweep of his jurisdiction. It is fairly settled that Financial Commissioner can interfere with choice of

Collector if the same is arbitrary or capricious. It may not be appropriate for him to simply differ with the Collector by comparing the merits of the

candidates. It would, therefore, be appropriate to remand this case to the Financial Commissioner to consider if there is any perversity or

arbitrariness in exercise of power or passing the order on the part of the Collector while appointing the petitioner as Lambardar. If the Financial

Commissioner comes to the conclusion that the choice is arbitrary etc. he would be at liberty to interfere with the impugned orders. Purely on

factual and appreciation of merits, it may not be very appropriate for the Financial Commissioner to interfere with the choice of Collector. This

would be as per the law laid down by this Court in number of judgments. Reference here can be made to a decision in Civil Writ Petition No.

18945 of 2007 titled as Balwant Singh versus State of Haryana and others decided 09.01.2009.

4. The impugned order is set aside. The case is remanded back to the Financial Commissioner to re-consider the same in the light of observation

made above. Parties through their counsel are directed to appear before the Financial Commissioner on 08.08.2012. The present writ petition is,

accordingly, disposed of.