

**(2011) 04 P&H CK 0312**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Writ Petition No. 9552 of 2008 (O and M)

Harbhajan Singh

APPELLANT

Vs

Financial Commissioner  
(Co-operation) and Another

RESPONDENT

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**Date of Decision:** April 28, 2011

**Acts Referred:**

- Punjab Land Revenue Rules, 1909 - Rule 20

**Citation:** (2011) 3 RCR(Civil) 837

**Hon'ble Judges:** Ajai Lamba, J

**Bench:** Single Bench

**Final Decision:** Allowed

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**Judgement**

Ajai Lamba, J.

Lambardar/Headman was to be appointed for village Mujjafarpur, Tehsil and District Nawanshahar, for which Petitioner, Harbhajan Singh and Respondent No. 2, Mohan Singh, were the main contestants before the appellate and revisional authorities.

2. Vide Order dated 17.1.2002(Annexure P-16), the Petitioner was appointed as Lambardar, essentially, taking into account better merit of the Petitioner, being more educated and having rendered more service to the society.

3. Respondent No. 2, Mohan Singh, carried an appeal that has been decided by Commissioner vide Order dated 12.3.2003 (Annexure P-17). Vide Order Annexure P-17, Commissioner remanded the case back to Collector to pass fresh orders on merit after making an enquiry in regard to the residential status of the Petitioner whether he is a migrant or lives in the country ordinarily.

4. Collector on reconsideration of the issue, vide Order dated 31.5.2004 (Annexure P-18) appointed Respondent No. 2 as Lambardar.

5. Petitioner carried an appeal. Commissioner, vide Order dated 17.2.2005 (Annexure P-20) allowed the appeal considering better merit of the Petitioner. While the case was being argued before Commissioner viz. appellate authority, it was brought out that an FIR had been lodged against the Petitioner. The said FIR, however, has been ignored by the Commissioner while saying that the issue of FIR against the Petitioner was never agitated before District Collector, by the Respondent and the incident relates to post period, and therefore, does not merit consideration. It has also been said that mere registration of FIR does not warrant draw of adverse inference until and unless the person is held guilty of the charges.

6. Respondent No. 2 carried an appeal before the Financial Commissioner that has been allowed vide Order dated 11.4.2008 (Annexure P-21). The order passed by Collector viz. Annexure P-18 has been upheld and order passed by Commissioner viz. Annexure P-20 has been set aside, however, on the ground that residential status of the Petitioner indicated that he resides abroad.

7. During arguments, the details of merit need not be gone into, in so much as, it has been brought out that Petitioner as also the private Respondent are involved in criminal cases. So far as the Petitioner is concerned, charges have already been framed as is evident from Annexure R-2/1 dated 4.10.2004. Petitioner is being tried. So far as Respondent No. 2 is concerned, criminal cases are pending against the said Respondent.

8. So as to discharge the duties of a Headman/ Lambardar, under Rule 20, a person is required to have an impeccable record and good character. Duties to be discharged by a headman/Lambardar are given out in Rule 20 of the Punjab Land Revenue Rules which when extracted, read as under:

20. Duties of headman.- In addition to the duties imposed upon headman by law for any purpose, a headman shall-

(i) collect by due date all land revenue and all sums, recoverable as land revenue from the estate, or sub-division of an estate in which he holds office, and pay the same personally or by revenue money order or by remittance of currency notes through the post or at places where treasury business is conducted by the State Bank of India or any Scheduled Bank as notified by the State Government from time to time, by cheque on a local Bank at the place and time appointed in that behalf to the Revenue Officer or assignee empowered by Government to receive it;

(ii) collect the rents and other income of the common land, and the account for them to the persons entitled thereto;

(iii) acknowledge every payment received by him in the books of the landowners and tenants;

(iv) defray joint expenses of the estate and render accounts thereof as may be duly required of him;

(v) report to the Tehsildar the death or any assignee of land revenue or Government pensioner residing in the estate, or the marriage or re-marriage of a female drawing a family pension and residing in the estate, or the absence of any such person for more than a year;

(vi) report to the Tehsildar and Collector all encroachments on and injury to the roads, public streets and Government, Nazul and Panchayat land;

(vii) report any injury to Government buildings made over to his charge;

(viii) carry out, to the best of his ability, any orders that he may receive from the Collector requiring him to furnish information or to assist in providing on payment supplies or means of transport for troops or for officers of Government on duty;

(ix) assist in such manner as the Collector may from time to time direct at all crop inspections, recording of mutations, surveys, preparation of records of right, or other revenue business carried on within the limits of the estate;

(x) attend the summons of all authorities having jurisdiction in the estate, assist all officers of the Government in the execution of their public duties, supply, to the best of his ability any local information which those officers may require, and generally act for the landowners, tenants and residents of the estate or sub-division of the estate in which he holds office in their relations with Government;

(xi) report to the Patwari any outbreak of disease among animals or human beings;

(xii) report to the Patwari the deaths of any right-holders in their estates;

(xiii) report any breach or cut in a Government irrigation canal or channel to the nearest canal officer, or canal Patwari;

(xiv) under the general or special directions of the Collector, assist by the use of his personal influence and otherwise all officers of Government and other persons, duly authorised by the Collector, in the collection and enrolment of recruits for military service whether combatant or non-combatant;

(xv) render all possible assistance to the village postman, while passing the night in the village, in safeguarding the cash and other valuables that he carried.

9. For discharge of duties, as can be made out from the provisions of Rule 20 extracted above, Lambardar is required to interact with residents in the Estate and collect information, assist the revenue authorities etc. If a Lambardar does not have a clean record, surely, the functions cannot be discharged effectively. A Lambardar, under the circumstances is required to have a clean record. The Petitioner and private Respondent however are involved in criminal cases and therefore are not suitable to discharge the functions of Lambardar.

10. In view of the above, considering the peculiar facts and circumstances of the case, Orders Annexure P-18, P-20 and P-21 are hereby quashed. The case is

remanded to District Collector for inviting fresh applications from the residents in the Estate so as to start the process of appointment of Lambardar afresh.

11. If Petitioner and Respondent No. 2 are eligible, surely they would be at liberty to apply for appointment as Lambardar. Suitability to serve as Lambardar, however, shall be seen by Collector in the context of law on the issue.

12. The petition is decided accordingly.