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## Amarjit Kaur Vs Financial Commissioner (Co-operation), Punjab and Others

## C.W.P. No. 6665 of 2010

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 29, 2011

**Acts Referred:** 

Constitution of India, 1950 â€" Article 226, 227

Hon'ble Judges: Alok Singh, J

Bench: Single Bench

Final Decision: Allowed

## **Judgement**

Alok Singh, J.

Petitioner has invoked extra ordinary / supervisory jurisdiction of this Court under Articles 226/227 of the Constitution of

India, assailing impugned order dated 27.11.2009 passed by Financial Commissioner (respondent No. 1), as well as order dated 28.08.2007

passed by the Commissioner, Jalandhar Division, Jalandhar (respondent No. 2).

2. Petitioner was appointed Lambardar by the Collector, Kapurthala, vide order dated 06.12.2006, however, order of the Collector was

challenged in an appeal before the Commissioner by respondent No. 4 herein. The learned Commissioner having held that present petitioner

(respondent therein) is running a school at Talwara, therefore, her availability in village Rajpur, to perform the duties of Lambardar seems to be

doubtful, while availability of the candidate in the village is a paramount consideration. Learned Financial Commissioner also agreed with the

Commissioner, Jalandhar Division and dismissed the revision filed by the present petitioner.

3. The only question involved in the present petition is, as to whether a Lambardar is expected to be unemployed or merely engaged in agricultural

activities?

4. In the opinion of this Court, Lambardar cannot be expected to be an unemployed or merely engaged in agricultural activities. Merely because

petitioner is running a school at Talwara, would not mean that she will not be available in the village to perform duties of Lambardar. Petitioner has

given sufficient explanation that she has engaged several teachers and staff in the school to look after the management, other jobs and teaching

activities, therefore, presence of the petitioner in the school regularly is not required, which was wrongly disbelieved by the learned Commissioner.

Merely because, Lambardar is running a school in the nearby city, cannot be a basis to create doubt that in future she would not be available in the

village to discharge duties of Lambardar.

5. In the opinion of this Court if other qualities or qualifications of the candidate are appealing and he is permanent resident of the village and

ordinarily residing in the same village, his candidature should not be refused solely on the ground he is engaged in some commercial activities near

the village to earn his livelihood.

- 6. Hon"ble Apex Court in the matter of Mahavir Singh Vs. Khiali Ram and Others, in paragraphs No. 20 and 21 has held as under :-
- 20. The High Court while exercising its jurisdiction under Article 226 of the Constitution of India is basically concerned with the correctness of the

decision making process and not the merit of the decision. It has not been found by the High Court that Collector in expressing his opinion as

regards comparative merit of appellant vis-"-vis respondent No. 1 committed an error in his decision making process. The principles of natural

justice have been complied with. Procedure laid down in the Rules had also been complied with. It is also not correct to say, as has been

contended by Mr. Mahajan that the Collector had not taken into consideration the services rendered by the respondent No. 1 to the State. He did

acknowledge that the respondent No. 1 had rendered the services to the State as a member of the Armed Forces. The Collector also took into

consideration that the views of the respectable of the village were in favour of appellant as also the fact that he had participated in the collection

work of the village and helped the government officials at the time of their visit. He furthermore took into consideration the fact that the Naib

Tehsildar, Hansi had also recommended his name. Even the Circle Revenue Officer had recommended therefor.

21. It is, therefore, not a case where the finding of the Collector can be said to be perverse. It has also not been established that the said statutory

authority while taking a decision failed to take into consideration the relevant factors or based its decision on extraneous considerations or on

irrelevant factors not germane therefor.

7. In view of the dictum of the Apex Court, decision of the Collector can only be upset when higher authorities or this Court finds that Collector

has been mislead by irrelevant factors or has escaped any important material while considering the candidature or action of the Collector seems to

be out of extraneous consideration.

8. Neither Divisional Commissioner nor Financial Commissioner had recorded any finding that the Collector has over-looked any important

material, which would have resulted in the different opinion or action of the Collector is out of extraneous consideration or Collector was mislead

by placing irrelevant record before him, therefore, order of the Collector ought not to have been disturbed by the authorities below. In the opinion

of this Court, Divisional Commissioner, as well as, Financial Commissioner, were not well within their jurisdiction while disturbing the

opinion/decision of the Collector appointing the petitioner as Lambardar.

9. Present petition is allowed. Orders impugned are set aside, order of the Collector dated 06.12.2006 is restored.