(1994) 10 P&H CK 0064

High Court Of Punjab And Haryana At Chandigarh

Case No: R.O.R. 111 of 1993-94

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| Jawant Singh | | APPELLANT |
| | Vs | |
| Ajaib Singh | | RESPONDENT |

Date of Decision: Oct. 11, 1994

Citation: (1995) 1 LJR 147 : (1994) PLJ 576 : (1995) 1 RRR 35

Hon'ble Judges: Amrik Singh Pooni;IAS;FC, J

Advocate: S.C. Chabra, Advocate, Mr. A.S. Ladhar, Advocate., Advocates for appearing Parties

Judgement

Amrik Singh Pooni, F.C.

1. Through this revision petition under Section 16 of the Punjab Land Revenue Act, Jaswant Singh has challenged the order dated 13.10.1993 of Commissioner, Ferozepore Division, Ferozepore, vide which he accepted an appeal of Ajaib Singh, Respondent and appointed him as Lambardar of village Bachhuana, Tehsil Budhladha, District Mansa by quashing the order dated 27.1.93 of the District Collector, Mansa, appointing the petitioner as Lambardar.

2. The learned Counsel for the petitioner urges that the Commissioner had no authority to set aside the choice made by the collector who had made his choice by discussing the merits and demerits of the candidates before him. It is urged that the appointment of a Lambardar is the prerogative of the District Collector and the Commissioner should interfere with the same only if it is perverse or illegal. At the most the Commissioner could have remanded the case to the Collector in case he found any deficiency in the choice made by him. The learned Counsel for the Respondent has on the other hand contended that the Commissioner has discarded the candidature of the petitioner on very solid grounds. The learned Counsel has described in detail the various civil and criminal cases in which the petitioner has been involved and which reflect on his personal character. It is contended that the petitioner is a person of shady character and he is also a habitual defaulter. On the other hand the Respondent has a very clean personal record and it has been duly

proved by certificates placed on record that he was not a defaulter and as such this charge against him by the Collector lacked force.

3. I have considered the pleas of the parties and have also gone through the record of the case. There is no quarrel with the proposition that the choice of a Lambardar is the prerogative of the Collector and the Commissioner should in appeal, interfere with this choice only when the order of the Collector suffers from a serious deficiency. The matter to be seen, therefore, is as to whether the choice made by the Collector was in accordance with law. I find from the record that the Respondent Ajaib Singh is the son of the deceased Lambardar and belongs to the Patti to which the Lambardari pertains. The Collector has rejected his candidature primarily on the ground that a case for recovery filed by the Punjab National Bank is pending, among others against Sh. Ajaib Singh. The Collector has preferred the present petitioner on grounds of his being a Matriculate and on the ground that he reigns considerable influence having remained Sarpanch and a member of the Panchayat & Block Samiti. The Collector has ignored the allegations against the personal conduct of the present petitioner on the short ground that he has not been punished in any case. I have in this connection gone through the various cases in which the petitioner has been involved at one time or the other. On the criminal side I find that the petitioner was sentenced to four months rigorous imprisonment, and fined under Section 408 I.P.C. by Judicial Magistrate Ist Class Mansa. The Additional Session Judge Bathinda acquitted him on the technical ground that the prosecution against him was launched beyond the period prescribed by sections 468/469 Cr.P.C. The petitioner was also tried for rape u/s 376 of I.P.C. He was acquitted by being given the benefit of doubt. He was also involved in an abduction case where a case was not made out against him. On the civil side I find that he filed a case against the village panchayat claiming ownership of Khasra No. 85/22, 8 kanals on the basis of an exchange ordered exparte by the Additional Director, Consolidation on 10.8.1990. I have in this connection perused the order of the Additional Senior SubJudge who has given a finding that Khasra No. 85/22 was withdrawn from the Gram Panchayat through an exparte order in lieu of khasra No. 747/1 which the present petitioner was stated to have agreed to transfer to the Gram Panchayat. The Senior SubJudge in dismissing the case of the petitioner gave a clear finding that a Khasra number 747/1 had already been sold by Jaswant Singh to one Bhura Singh as per agreement dated 29.7.1986. It is clear, therefore, that the petitioner did not approach the court of law with clean hands. The file also contains evidence of arbitration proceedings against the petitioner for recovery of two sums of Rs. 22193 and 24860 on account of loans raised by the petitioner. To sum up the petitioner was found guilty of a criminal offence in which he was acquitted only on technical grounds and a court of law has held him guilty of misleading the court with a view to gain an undue advantage. It cannot, therefore, be said that the petitioner had a clean personal record which could be closed over by a bald statement that he had not been convicted of any crime. The Commissioner in my considered opinion rightly came to

the conclusion that Ajaib Singh as compared with the present petitioner is a far better candidate. In view of the facts of the case the modification of the order of the Collector by the Commissioner was fully justified. I see no grounds for interfering with the orders of the Commissioner. The revision petition is dismissed.

Announced.