

**(2001) 08 P&H CK 0208**

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

**Case No:** Civil Writ Petition No. 15503 of 1996

Nazar Singh

APPELLANT

Vs

Gian Singh and Another

RESPONDENT

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**Date of Decision:** Aug. 21, 2001

**Acts Referred:**

- Punjab Gram Panchayat Act, 1952 - Section 6(5)(1)
- Punjab Land Revenue Act, 1887 - Section 44

**Hon'ble Judges:** Adarsh Kumar Goel, J

**Bench:** Single Bench

**Advocate:** Ajay Tewari, for the Appellant;

**Final Decision:** Allowed

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**Judgement**

Adarsh Kumar Goel, J.

This writ petition challenges the order dated 11.9.1996 (Annexure P-31) passed by the Additional District Judge, Bathinda, as an appellate authority under the provisions of the Punjab Gram Panchayat Act, 1952 (for short the Act). By the said order, the appeal filed by respondent No. 1 was accepted and the election of the petitioner was set aside on the ground that he was a lessee on the Panchayat land and was, thus, disqualified from being a Sarpanch u/s 6(5)(1) of the Act. The said appellate authority set aside the order of the prescribed authority taking a contrary view.

2. Learned counsel for the petitioner contended that the petitioner's father was in possession of 3 kanals 10 marlas of land and after his death in the year 1978, name of the petitioner was mechanically substituted for the name of his father though he was not in possession; his sons had purchased some adjoining land and the petitioner's sons may be in possession of the land which was earlier in possession of his father. He has referred to Annexure P-3 which was an application for correction of khasra/Girdawari and according to him though the said application

was moved by the petitioners' son, the appellate authority treated the said application as having been filed by him. He has referred to the decision of this Court in *Dalip Singh v. Faquir Singh and Anr.* 1996 114 P.L.R. 119 in support of the proposition that for the default of a father, son cannot be held to be disqualified. He has also submitted that the entry in the revenue record showing the petitioner to be in possession in place of his father could not be relied upon and presumption of truth will not arise in respect of the said revenue entry. For this he has referred to [Uttam Singh Vs. Des Raj](#). He has also relied upon *Prem Singh v. ADJ Kurukshetra and Ors.* 1986 PLJ 444 for a submission that election could not be set aside in absence of any evidence. While there is no dispute with the proposition that disqualification has to be proved and the same must relate to the returned candidate and not to his father or son and also that the presumption u/s 44 of the Punjab Land Revenue Act about correctness of revenue entry was rebuttable as submitted by the learned counsel for the petitioner on the strength of decisions of this Court referred to above. The question is whether in the present case, the petitioner stood disqualified as held by the appellate authority. The appellate authority has recorded a finding that the petitioner was in possession of the Panchayat land, rejecting his plea that the same was in possession of his son. In a writ of certiorari, the Court does not sit in an appeal over the decision of a Tribunal. The appellate authority, on the basis of the jamabandis Exhibits P3, P1 and P-7 held the petitioner to be in possession of the Panchayat land rejecting the application of the petitioners' son who claimed to be in possession, on the ground that the petitioner's son was only 2/3 years of age and could not be in possession. The authority after examining documents Exhibit P2 and Exhibit P-8 showing the petitioner to be in cultivation, came to the conclusion that the petitioner was cultivating the Panchayat land. No ground has been made out for interference with the said order.

3. This writ petition is, therefore, dismissed.