

(2006) 05 P&H CK 0231

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Sombir

APPELLANT

Vs

Financial Commissioner and
Another

RESPONDENT

Date of Decision: May 11, 2006

Citation: (2008) 152 PLR 435 : (2009) 1 RCR(Civil) 280

Hon'ble Judges: Mahesh Grover, J; Ashutosh Mohunta, J

Bench: Division Bench

Final Decision: Allowed

Judgement

Ashutosh Mohunta, J.

The petitioner has filed this petition praying for quashing of the order dated 27.5.2004 (Annexure P-6) by which the respondent No. 2 has been appointed as a Lambardar of village Nangla, Tehsil and District Jhajjar.

2. The petitioner was claimant to the posts of Lambardar and the Asstt. Collector, IInd Grade vide his order dated 20.2.2001 after assessing the relative merits and demerits of all the claimants concluded that the petitioner was the rightful choice for the post of Lambardar. The respondent No. 2 was placed at Sr. No. 2. The Asstt. Collector, 1st Grade to whom the file was sent after the recommendation made by the Asstt. Collector, IInd Grade appointed respondent No. 2 as the Lambardar and ignored the claim of the petitioner even though he had been placed at No. 1 in the recommendations made by the Asstt. Collector, IInd Grade. The only reasoning given by the Asstt. Collector, 1st Grade for ignoring the claim of the petitioner was that respondent No. 2 had a better physique. He observed "both candidates have enough land to deposit the land revenue. As per the report of the Station House Officer, the character of both the candidates have been verified correctly. For the post of lambardar both candidates fulfil the educational qualifications but the physique of Ajit Singh candidate is better than Sombir Singh and Shri Ajit Singh has participated in Govt. Policies."

3. The petitioner thereafter filed an appeal before the Court of Collector who dismissed the same. In further appeal the Commissioner upset the order of the Collector and directed the petitioner to be appointed as a Lambardar. The respondent No. 2 thereafter went up in revision before the Financial Commissioner who has now upset the order of the Commissioner while restoring the order of the Collector on the ground that the recommendations made by the Asstt. Collector, 1st Grade should not have been interfered with unless some perversity was shown in the order. We have heard the learned Counsel and think that the order of the Asstt. Collector, 1st Grade which was upheld by the Commissioner and the Financial Commissioner smacks of perversity. One of the principal reasons while comparing the merits and demerits of the petitioner and respondent No. 2 in accordance with Rule 15 of the Punjab Land Revenue Rules (hereinafter referred to as "the Rules") was that respondent No. 2 was physically better endowed than the petitioner. Such a reasoning is perverse as it does not conform to the considerations which are to be taken into account for appointment of a Lambardar. No doubt the choice of the competent authority in the appointment of Lambardar should not ordinarily be interfered with but if from the facts of the case it is shown that the order was perverse then the appellate and revisional authorities cannot shut their eyes to the facts of the case.

4. In view of the above, the writ petition is allowed. The petitioner, who was recommended by the Asstt. Collector, IInd Grade is directed to be appointed as the Lambardar.

Mahesh Grover, J.