

(2012) 08 P&H CK 0310

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 19604 of 2011

Rati Ram

APPELLANT

Vs

Financial Commissioner,
Haryana and others

RESPONDENT

Date of Decision: Aug. 17, 2012

Citation: (2013) 169 PLR 247 : (2013) 2 RCR(Civil) 552

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: R.S. Chauhan, for the Appellant; Sunil Nehra, D.A.G., Haryana for the State and Mr. R.S. Longia, Advocate, for the Respondent

Final Decision: Allowed

Judgement

Ranjit Singh, J.

The dispute relates to appointment of Scheduled Caste Lambardar of village Ram Saran, Tehsil Thanesar, District Kurukshetra. The applications were invited and the recommendations were made by the authorities in chain for consideration of the Collector. On 01.08.2005, the Collector remitted the case to Sub Divisional Magistrate and obtained report in regard to number of houses of persons belonging to Harijan Community and Balmiki Community. This report revealed that there are 48 houses belong to Balmiki Community whereas Harijan Community has only 12 houses in the village. On receipt of this report, the District Collector considered the recommendations and appointed the petitioner as Lambardar on 29.08.2006. The petitioner belongs to Balmiki community and is having good reputation. He claims that he can read and write. He is ex-serviceman, who has served the Nation. The Commissioner allowed the appeal filed by the respondent, which the petitioner challenged before the Financial Commissioner, who rejected appeal filed by the petitioner. The petitioner, thereafter, has filed the present writ petition before this Court. This Court remanded the case to the Financial Commissioner to decide the same afresh after taking into account the age of the

petitioner, educational qualification and the service rendered by him as Ex-serviceman. In compliance with this order, the Financial Commissioner has again held against the petitioner and has upheld the earlier order passed by him.

2. The petitioner, accordingly, has approached this Court against the order passed by the Financial Commissioner and would plead that the Financial Commissioner has no jurisdiction to interfere in the choice exercised by the Collector unless it is found to be arbitrary and perverse. As per the counsel, the Financial Commissioner has wrongly invoked his jurisdiction to interfere in the order and in the choice exercised by the Collector by comparing the relative merits, which is the duty of the Collector alone.

3. In support, the counsel for the petitioner has placed reliance on number of judgments of this Court. Some of these may need a notice here like Darshan Singh Versus Financial Commissioner (Appeals-1), Punjab and others 2009 (2) LAR 358, Mohinder Singh Versus Financial Commissioner (Revenue), Punjab and others 2009 (2) L.A.R. 360, Sat Pal versus Financial Commissioner, Appeals, Punjab Vol. CXLIX-(2008-1) PLR 40, Balwant Singh versus State of Haryana and others 2009 (2) L.A.R. 160.

4. On the other hand, the counsel for the respondent has alleged that the petitioner is over 70 years whereas the respondent is young person in forties. He would also contend that the petitioner is illiterate and even cannot read and write. Merely because the petitioner is old, would not mean that he is not capable of performing the duties of Lambardar. The status of the petitioner as Ex-serviceman was also to be considered. He had remained in the Army service and even had participated in both the wars that the country had to fight. After retirement from the Army, he also joined the Indian Air Force from where he superannuated in the year 1999. He belongs to community, which has more population, which fact has been completely ignored by the Financial Commissioner. The position of law is clearly settled that it is the responsibility of the Collector to appoint Lambardar and his choice can only be interfered with if it is found to be arbitrary or suffering from such vice, rendering the same capricious. Only on account of age, the claim of the petitioner has been declined. That alone should not weight so heavily to outweigh the other merits of the petitioner. The duties to be performed by Lambardar are well known and defined. It would not call for any reference here as is prayed by the counsel for the respondent.

5. I am of the considered view that the Financial Commissioner has interfered with the choice exercised by the Collector on consideration other than legally permissible. The order passed by the Collector and the Financial Commissioner, therefore, cannot be sustained. The same is set aside. The order passed by the Collector is restored. The writ petition is, accordingly, allowed.