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High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 78 of 2013

Pritam Singh	APPELLANT
Vs	
Financial Commissioner, Social Security, Punjab and Others	RESPONDENT

Date of Decision: June 2, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 107, 151

Hon'ble Judges: Rajan Gupta, J

Bench: Single Bench

Advocate: K.S. Dadwal, Advocate for the Appellant; Suresh Singla, Addl. A.G., Punjab, Mr. S.S. Hira, Advocate for Respondent No. 4 and Mr. Naveen Batra, Advocate for Respondent No. 5, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Rajan Gupta, J.
Petitioner seeks a writ in the nature of certiorari seeking quashing of order dated 02.11.2012, Annexure P5 passed by Financial Commissioner, Punjab whereby he has remanded the case to Collector to decide afresh after hearing the parties.

2. Learned counsel for the petitioner submits that case of the petitioner was considered by Collector as well as Commissioner and he was found suitable candidate for appointment as Lambardar. According to him, Financial Commissioner has committed a grave error in setting-aside the orders passed by two authorities below. He, thus, submits that impugned order is unsustainable and deserves to be set-aside.

3. Plea has been vehemently opposed by learned counsel appearing for respondent No. 4 & 5. According to them, matter has rightly been remitted and does not call for any interference.

4. I have heard learned counsel for the parties.

5. The post of Lambardar of village Harmoya fell vacant after death of previous incumbent namely Shiv Diwan Chand. After considering relative merit, Collector appointed petitioner as Lambardar vide order dated 26.03.2009 (Annexure P1). Aggrieved, respondent No. 4 preferred appeal before Commissioner, Jalandhar Division. Same was, however, dismissed on 22.12.2009 (Annexure P2). Thereafter, on a revision being preferred, Financial Commissioner vide his order dated 02.11.2012 set-aside the orders Annexures P1 & P2 and remanded the case to Collector for decision afresh after affording opportunity of hearing to candidates who had applied for the post. Aggrieved, present petition has been filed. I find no infirmity with the order passed by Financial Commissioner. He came to the conclusion that three candidates who remained in fray had one defect or the other. He, thus, remanded the case to Collector to decide the issue afresh. There is, thus, no ground to interfere in writ jurisdiction. Besides, impugned order passed by Financial Commissioner was challenged before this court by a candidate namely Sarwan Chand (respondent No. 4 herein) in CWP No. 24969 of 2012. The petition was decided on December 17, 2012 by a coordinate bench (Ranjit Singh, J) and it was held as follows:-

Eight candidates applied for appointment to the post of Lambardar. Collector appointed respondent No. 4. The petitioner and respondent No. 5 filed an appeal, which was dismissed. The Financial Commissioner allowed the revision and set-aside the appointment of respondent No. 4. It was found that he was accused of power theft. Petitioner could not be appointed as he was also found involved in proceedings u/s 107/151 Cr.P.C. and also had allegedly encroached some public land. The third person was also found accused of power theft. The case has accordingly been remanded for fresh consideration.

Considering the facts as involved, the order appears justified and reasonable. No case for interference in exercise of writ jurisdiction is made out.

Dismissed.

6. Perusal of aforesaid order shows that this court had already expressed its opinion about the order passed by Financial Commissioner. There is, thus no merit in the writ jurisdiction. Dismissed.