

Harish Chander v. State of Punjab, (2023-3)211 PLR 182
PUNJAB AND HARYANA HIGH COURT

Before: Justice Rajesh Bhardwaj

HARISH CHANDER – Petitioner

Versus

STATE OF PUNJAB and others – Respondents.

CWP-4925 of 2016

Punjab Land Revenue Act, 1887 (XVII of 1887), Section 13, 16 – Lambardar – Appointment of – Choice of the Collector should not be disturbed in a cavalier manner – It is the Collector, who not only appreciates the record of the candidates but also personally interacts with them – Name of respondent No.5 was recommended by the SDM and the Naib Tehsildar and finally the Collector appointed him as a Lambardar – No perversity in the conclusion drawn by the Collector and thereafter, affirmed by the appellate and revisional authorities – Dismissed. [Para 7-10]

Cases referred:

1. 2014(4) RCR (Civil) 414, *Rattan Singh v. Financial Commissioner, Haryana.*

2. 2016(3) R.C.R. (Civil) 725, *Sukhjinder Pal Singh v. State of Punjab* \

Mr.H.C. Arora, Advocate, for the petitioner. Ms. Akshita Chauhan, Deputy Advocate General, Punjab. Mr. A.P. Kaushik, Advocate, for respondent No.5.

Rajesh Bhardwaj, J. – (23.08.23) – Prayer in the present petition is for quashing the order dated 09.07.2014 (Annexure P-1) passed by the Collector, order dated 04.12.2014 (Annexure P-3) passed by the Commissioner and order dated 14.01.2016 (Annexure P-5) passed by the Financial Commissioner, rejecting the claim of the petitioner for appointment of Lambardar.

2. It has been contended by learned counsel for the petitioner that on the death of Shri Bhagwan Dass, Lambardar of village Mahuana Bodla, Tehsil and District Fazilka on 04.07.2012, post of General Lambardar fell vacant, hence, the process for the appointment of new Lambardar of the village commenced. He submits that proclamation i.e. Mushatri Munadi was conducted in the village for inviting applications for the post of Lambardar. He submits that in pursuant to the same, 11 applications were received for this post and out of total 11 candidates, 5 candidates, namely, Jajpreet Singh, Gagandeep Singh, Subash Chander, Resham Singh and Sandeep Singh did not appear and thus, they were proceeded ex parte. He submits that Naib Tehsildar Arniwala Shekhsubah after collecting report about the conduct of remaining candidates, submitted a report to SDM, Fazilka for recommending the name of Jasvir Singh (respondent No.5). He submits that out of these 6 candidates, only 2 candidates, namely, Jasvir Singh (respondent no.5) and Harish Chander (petitioner) came present before the SDM, Fazilka. He further submits that the SDM, Fazilka recommended the name of Jasvir Singh for appointment of Lambardar of the village. He submits that thereafter, the Collector on comparison of the merits of both the candidates found as follows:-

Particulars	Petitioner (Harish Chander)	Respondent No.5 (Jasvir Singh)
Age	35	39
Education	10+2	10+2
Land	5 Acres	4½ Acres
Hereditary Claim	Son of the deceased Lambardar Bhagwan Dass	—
Experience	—	—

Recommendation —

Recommended by SDM
and Naib Tehsildar

Any other merit —

—

3. Learned Counsel for the petitioner has submitted that after analyzing the merits of both the candidates, the Collector appointed Jasvir Singh-respondent No.5 as Lambardar of the Village vide order dated 09.07.2014 (Annexure P-1). He submits that the view taken by the Collector was totally against the facts on record and hence, aggrieved by the same, the petitioner challenged the appointment of Jasvir Singh by way of filing an appeal under Section 13 of the Punjab Land Revenue Act, 1887 (for short, 'the Act') before the Commissioner, Ferozepur Division, Ferozepur. He submits that the Commissioner also fallen in error in not appreciating the facts and circumstances of the case and the law settled and thus, illegally declined the appeal filed by the petitioner vide order dated 04.12.2014 (Annexure P-3). He submits that aggrieved by the order of the Commissioner, the petitioner further challenged the same by way of filing a revision under Section 16 of the Act before the Financial Commissioner, however, the Financial Commissioner also fallen in error in ignoring the evidence on record and the law settled and thus, declined the same vide order dated 14.01.2016 (Annexure P-5). It is further submitted that on comparison of the inter-se merits of both the candidates, it is apparent that the petitioner was younger than respondent No.5. Besides this, the petitioner being son of the deceased Lambardar, had hereditary claim as well. He submits that the petitioner was appointed as Sarbrah Lambardar by the Collector vide order dated 17.11.2003, thus, he remained Sarbrah Lambardar for 10 years and had rich experience of the working on the post of Lambardar. He submits that Rule 15 of the Punjab Land Revenue Rules, prescribes factors to be considered for the post of Lambardar. Rule 15 reads as under:-

"15. Matters to be considered in first appointments :- In all first appointment of headman, regard shall be had among other matters to-

- (a) his hereditary claims;
- (b) the property in the estate possessed by the candidate to secure the recovery of land revenue;
- (c) services rendered to the State by himself or by his family;
- (d) his personal influence, character, ability and freedom from indebtedness;
- (e) the strength and importance of the community from which selection of a headman is to be made;
- (f) services rendered by himself or by his family in the national movements to secure freedom of India."

4. Learned counsel for the petitioner has submitted that from the perusal of the conditions as enumerated in Rule 15 of the Punjab Land Revenue Rules, the petitioner was younger in age and had hereditary claim as well, however, all the authorities below failed to appreciate the same. He has submitted that the view taken by the Collector and subsequently affirmed by the higher authorities suffers from a patent illegality and thus, deserves to be set aside.

5. Learned counsel for respondent No.5 has opposed the submissions made by learned counsel for the petitioner. He has submitted that on the comparison of inter-se merits of both the candidates, respondent No.5 was found to be more meritorious. He submits that the main contention raised by learned counsel for the petitioner is that the petitioner had hereditary claim, however, the same has been nullified by the Hon'ble Division Bench of this Court in Rattan Singh vs. Financial Commissioner, Haryana and others, 2014(4) RCR (Civil) 414. He has further submitted that it is the settled proposition of law that the view taken by the Collector cannot be set aside in a cavalier manner unless and until the same suffers from a patent illegality and there being no perversity in the order passed by the learned Collector, which has been affirmed by both the appellate and revisional authorities, the contentions raised by counsel for the petitioner, are without any merit and thus, the present petition deserves to be

dismissed.

6. Heard.

7. Evidently, on the death of Shri Bhagwan Dass, Lambardar of the village, process for the appointment of General Lambardar, was initiated and subsequent to that 11 applications were received, out of which five candidates did not appear and were proceeded ex parte. On the comparison of the inter-se merits of the remaining candidates, name of respondent No.5 was recommended by the SDM and the Naib Tehsildar and finally the Collector found respondent No.5 to be more suitable and thus, appointed him as a Lambardar of the Village vide order dated 09.07.2014. Aggrieved by the appointment of respondent No.5, the petitioner filed an appeal, which was dismissed by the Commissioner finding no merits in the same. Thereafter, revision was also filed by the petitioner, but the same was dismissed by the revisional authority finding no force in the revision.

8. In *Sukhjinder Pal Singh v. State of Punjab and others*, 2016(3) R.C.R. (Civil) 725 this Court while dealing with the same question has held as under:-

“14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.”

9. As per the law settled, there is no gainsaying that the choice of the Collector should not be disturbed in a cavalier manner. It is the Collector, who not only appreciates the record of the candidates but also personally interacts with them.

In *Rattan Singh's* (supra), it has been held as under:-

“15. The writ petition filed by the appellant was dismissed by holding that preference can be given to a hereditary claim where other merits are found to be almost equal and by relying upon the principle that “the choice of the Collector is final”. If we were to accept this enunciation of law, it would, in essence, introduce the vice of inequality, based upon a hereditary claim, the very vice that Article 14 of the Constitution, seeks to prohibit. With due deference to the opinion recorded while dismissing the writ petition, a hereditary claim cannot be considered whatever be the circumstance whether directly or indirectly, and whether ‘other’ factors or merits are equal or not.

16. An argument raised by counsel for respondent No.4 that as respondent No.4 has worked as a sarbarah Lambardar, his experience necessarily makes him the better candidate, in our considered opinion, would introduce a hereditary claim, indirectly. A sarbarah lambardar is generally appointed from amongst sons/grand-sons of a lambardar and, therefore, grant of preference on account of experience as sarbarah lambardar, or considering it, as a relevant factor, would once again introduce a hereditary claim into the selection. If a sarbarah (officiating lambardar) is appointed by inviting applications from eligible candidates, the situation would be different but where he is appointed as he is the son or grandson of a lambardar, such a service cannot be considered as a relevant factor.

10. Viewing the facts and circumstances of the case on the anvil of law settled, this Court does not find any perversity in the conclusion drawn by the Collector and thereafter, affirmed by the appellate and revisional authorities and thus, the present petition being devoid of any merit is hereby dismissed.

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