

Mahavir Singh v Khiali Ram 2008 PLRonline 0206 (SC) [#217102]

(i) Punjab Land Revenue Act, 1887, Section 28 - Punjab Land Revenue (Lambardari) Rules 1908, Rules 15 and 16 - Lambardar - Appointment of - Rule 15 enumerates the factors which are required to be taken into consideration for the purpose of appointment in the said post being : “(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;” [Para 3]

(ii) Punjab Land Revenue Act, 1887, Section 28 - Punjab Land Revenue (Lambardari) Rules 1908, Rules 15 and 16 - Lambardar - Appointment - Appellant is son of a deceased Lambardar and he used to help him in the work of ‘Lambdari’ during his life time - Age 36 years - Respondent - Graduate - Aged 62 years - A retired official from the Indian Armed Force and he has served the nation for 28 years and as such good experience in the military works - Character all were found to possessing good character - Similar opinion was expressed in respect of land and property -The Collector drew his conclusion, upon taking into consideration the aforementioned factors - Not a case where the finding of the Collector can be said to be perverse - It has also not been established that the said statutory authority while taking a decision failed to take into consideration the relevant factors or based its decision on extraneous considerations or on irrelevant factors not germane therefor - Upheld. [Paras 13, 14, 17]

(iii) Lambardar - Appointment of - In the State of Punjab - Age of a candidate is a relevant factor - Punjab Land Revenue Act, 1887, Section 28 - Punjab Land Revenue (Lambardari) Rules 1908, Rules 15 and 16 . *Lt. Malik Abbas Khan v. Ghulam Haidar [1940 Lahore Law Times 25], Kalyan Singh v. Haidar [1928 Lahore Law Times 33], Lila Ram v. Asa Ram [1955 Lahore Law Times 29] , Jai Dayal v. Mohar Singh [1962 P.L.J. 64], referred.* [Para 14]

(iv) Lambardar - As defined in Advanced Law Lexicon, 3rd edition 2005, page 2616 as a ‘headman of a village or of a patti or section of a village’ - furtherstated : “...The cultivator who either on his own account, or as the representative of other members of the village, pays the Government dues and is registered in the Collector’s roll according to his number: as the representative of the rest he may hold the office by descent or by election...” [Para 11]

(v) Punjab Land Revenue Act, 1887, Section 28 - Punjab Land Revenue (Lambardari) Rules 1908, Rules 15 and 16 lambardar - Although the post of Lambardar is governed by the provisions of the Punjab Land Revenue Act and the Rules framed thereunder, holder of the said post is not a Government servant - He does not hold a civil post within the meaning of Article 309 of the Constitution of India - He although is paid a sum of Rs. 500/- as a fixed sum but

his main income is the amount of commission which he receives out of the amount of revenue collected - Apart from collection of revenue, he has other functions to perform including rendition of assistance to an investigating officer when a crime is committed in a village. [Para 12]

(vi) Constitution of India, Art. 226 - A writ court could interfere with a finding of fact when the same inter alia is found to be perverse - High Court furthermore failed to take into consideration that while exercising its power of judicial review, it exercises a limited jurisdiction - The court, is ordinarily concerned with the decision making process and not the merit of the decision. [Para 18]

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