

clearly states that the appellant is not in possession of any common land, particularly, the graveyard. It is further argued that as the post was advertised for general category candidates, under Rule 14 read with Rule 15 of the Punjab Land Revenue Rules, 1909 and Rule 19 of the said Rules, prescribes a separate procedure for appointment of a scheduled caste category, 'Lambardar'. Respondent No.4, who, admittedly, belongs to a scheduled caste, could not have applied for the post of a general category, 'Lambardar'.

3. We have heard counsel for the appellant and find no reason to entertain the appeal, much less, set aside the impugned order.

4. A perusal of the impugned order reveals that the only contention raised on behalf of the appellant was that as respondent No.4 belongs to a scheduled caste, he cannot be allowed to participate in selection to the post reserved for a general category candidate. The argument, in our considered view, is misconceived as there is no prohibition in any Statute, much less the relevant rules, that would debar a scheduled caste candidate from applying for the post of general category Lambardar. The argument raised by counsel for the appellant, if accepted, would, in essence, operate to discriminate against person belonging to scheduled castes. As regards the other argument relating to the appellant's alleged unauthorized possession of a graveyard, suffice is to state that no such argument was raised before the learned Single Judge.

5. In view of what has been stated hereinabove, the appeal is dismissed.

Appeal dismissed.

PUNJAB AND HARYANA HIGH COURT

Before: Rajive Bhalla & Rekha Mittal, JJ.

LPA No.1546 of 2012(O&M)

Decided on: 15.11.2012

Balram

Appellant

Versus

Financial Commissioner (Revenue), Haryana and others

Respondents

Present: Mr. Karamvir Singh Banyana, Advocate for the appellant

Punjab Land Revenue Act, 1887 (XVII of 1887), Section 13, 15 -- Appointment of Lambardar -- Choice of Collector -- Decision of the Collector in respect of suitability and fitness of a candidate as Lambardar is administrative in nature -- It is an established principle that judicial review of such order is confined to an appraisal of the impugned order so as to discern whether it is perverse, arbitrary or violates the provisions of any statutory enactment -- Till such time the choice of the Collector does not suffer from any of the above disabilities, it shall be deemed to be final -- Even otherwise decision of the Collector should not be lightly interfered with.

The decision of the Collector in respect of suitability and fitness of a candidate as Lambardar is administrative in nature. It is an established principle that judicial review of such order is confined to an appraisal of the impugned order so as to discern whether it is perverse, arbitrary or violates the provisions of any statutory enactment. Thus, till such time the choice of the Collector does not suffer from any of the above disabilities, it

shall be deemed to be final.

Counsel for the appellant has failed to substantiate his plea that the order passed by the Collector, affirmed by the Financial Commissioner (Revenue) suffers from any error of jurisdiction or of law warranting interference. Even otherwise as per the settled position of law, the decision of the collector should not be lightly interfered with. In this context, reference can be made to the judgment of the Hon'ble Supreme Court in Mahavir Singh vs. Khiali Ram & others, 2009(3) SCC 439 and Lila Ram vs. Asa Ram 1995 Lahore Law Times 29.

(Para 5,6)

Cases referred:

1. Mahavir Singh v. Khiali Ram & others, 2009(1) L.A.R. 571 (SC) = 2009(3) SCC 439.
2. Lila Ram v. Asa Ram, 1995 Lahore Law Times 29.

JUDGMENT

REKHA MITTAL, J. –

1. The appellant prays for setting aside order dated 8.5.2012 passed by the learned Single Judge whereby his petition has been dismissed.

2. Counsel for the appellant contends that the learned Single Judge wrongly dismissed the writ petition as the appellant is the most suitable and best candidate for being appointed as Scheduled Caste Lambardar as compared to respondent No. 4 (selected candidate) because the appellant has better educational qualification, he is brother of deceased Lambardar and has experience to perform the duties of Lambardar as he was assisting his brother.

3. We have heard counsel for the appellant, perused the impugned order and find no reason to entertain much less accept the appeal.

4. On accrual of vacancy of Scheduled Caste Lambardar of village Dheerpur, Tehsil Thanesar, District Kurukshetra, process was initiated by the concerned revenue authorities to fill the vacancy. The appellant and respondent No. 4 were the contesting candidates for the said post. The Collector, Kurukshetra decided in favour of respondent No. 4 vide order dated 31.12.2009. The appellant preferred an appeal before the Commissioner, Ambala Division, Ambala, against order dated 31.12.2009, which was accepted and the appellant was appointed as Lambardar. Respondent No. 4 filed a revision before the Financial Commissioner (Revenue), Haryana and the same was allowed vide order dated 16.11.2011, impugned in the writ petition. The writ petition filed by the appellant was dismissed by the learned Single Judge. A relevant extract from the impugned order reads as follows:-

“The appellant was 69 years of age at the time of application while the private respondent was less than 50 years of age. Having regard to the age, qualification, character and service to society, the Financial Commissioner was of the opinion that the choice of the private respondent could be better. While so holding, he has also observed that the decision of the Collector ought not to be lightly interfered with and if the Collector had preferred the choice of the private respondent, there was no reason why the appellant has to be preferred. I do not find any error in the order subjected to challenge in the writ petition.”

5. The decision of the Collector in respect of suitability and fitness of a candidate as Lambardar is administrative in nature. It is an established principle that judicial review of such order is confined to an appraisal of the impugned order so as to discern whether it is perverse, arbitrary or violates the provisions of any statutory enactment. Thus, till such time the choice of the Collector does not suffer from any of the above disabilities, it shall be deemed to be final.

6. Counsel for the appellant has failed to substantiate his plea that the order passed by the Collector, affirmed by the Financial Commissioner (Revenue) suffers from any error of jurisdiction or of law warranting interference. Even otherwise as per the settled position of law, the decision of the collector should not be lightly interfered with. In this context, reference can be made to the judgment of the Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram & others, 2009(1) L.A.R. 571 (SC) = 2009(3) SCC 439** and **Lila Ram vs. Asa Ram 1995 Lahore Law Times 29**.

7. In view of the above, the appeal is dismissed with no order as to costs.

Appeal dismissed.

PUNJAB AND HARYANA HIGH COURT

Before: Rajive Bhalla & Rekha Mittal, JJ.

C.W.P.No. 3862 of 1987 (O&M)

Decided on: 20.11.2012

Jeet Singh and others

Petitioners

Versus

Joint Director, Panchayats, Punjab and others

Respondents

Present: Mr. Sarjit Singh, Senior Advocate with Mr. Amit Kashyap, Advocate, for the petitioners

Ms. Sudeepti Sharma, DAG, Punjab for respondent Nos. 1 and 2

Mr. C.L.Premy, Advocate, for respondent No. 3

A. Punjab Village Common Lands (Regulation) Rules, 1964, Rule 16 – Title dispute with Gram Panchayat – Consent by Sarpanch -- Consent decree – Collusive decree – Legality of -- In a suit Plaintiff claimed relief on the basis of possession alone -- Sarpanch of defendant-Gram Panchayat made a statement that the Gram Panchayat did not want to lead any evidence and raises no objection as the plaintiff has title in accordance with the revenue record -- Sub-rule 3 of Rule 16 of the 1964 Rules, creates a specific embargo debarring the Sarpanch or Panch from instituting or defending a suit or compounding or admitting a claim of the party suing the panchayat without prior authorization by the panchayat by a resolution in writing passed in a meeting specifically called for the purpose -- Nothing on the record to suggest that any such authorization was given to the Sarpanch to admit the claim of plaintiff -- Judgment of the civil Court makes it crystal clear that collusion on the part of Sarpanch is writ large -- No reason to accept the assertion of the