

**IN THE COURT OF SH. D. P. REDDY, I.A.S.,
FINANCIAL COMMISSIONER, PUNJAB, CHANDIGARH.**

ROR 36 of 2017

Date of Institution: 17.01.2017

Date of Decision: 06.11.2017

Balwant Singh son of Mukhtiar Singh, resident of Village Dhanauri, Tehsil Samana, District Patiala.

...Petitioner

Versus

Sahib Singh son of Gurdial Singh, resident of Village Dhanauri, Tehsil Samana, District Patiala.

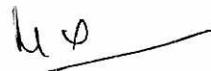
...Respondent

Present: Sh. Sherry K. Singla, Advocate, counsel for the petitioner.
Sh. Yashpal Thakur, Advocate, counsel for the respondent.

ORDER

The instant revision petition has been filed under section 16 of the Punjab Land Revenue Act, 1887 against the orders dated 13.12.2016 and 14.06.2016 passed by Divisional Commissioner, Patiala and District Collector, Patiala respectively, in the matter of appointment of Lambardar.

2. Brief facts of this case are that applications were invited by making proclamation in the village to fill up the newly created post of Scheduled Cast Lambardar of village Dhanauri, Tehsil Samana, District Patiala. In response to this proclamation, five candidates applied for this post. After completing all the requisite formalities, Assistant Collector 2nd Grade (Tehsildar), Samana recommended the name of present respondent Sahib Singh and forwarded the case to Assistant Collector 1st Grade (SDM), Patiala, who recommended the name of present petitioner Balwant Singh and forwarded the case to District Collector, Patiala for appointing a suitable candidate as Lambardar. The District Collector, Patiala, after hearing all the candidates and appreciating the comparative merit of the candidates found the present respondent Sahib Singh to be fit and suitable candidate and vide order dated 14.6.2016 appointed him as Scheduled Cast Lambardar of village Dhanauri. Aggrieved from this order,



the present petitioner Balwant Singh filed an appeal before the Divisional Commissioner, Patiala who rejected the same vide order dated 13.12.2016. Hence, the instant revision petition.

3. I have heard the learned counsels for both the candidates.

4. The learned counsel for the petitioner contended that the name of the respondent was recommended by the Assistant Collector 2nd Grade (Tehsildar), Samana and Collector, Patiala appointed him as scheduled cast lambardar. Assistant Collector 1st Grade (SDM), Patiala had disagreed with Assistant Collector 2nd Grade and recommended the name of the petitioner. Learned District Collector has appointed the respondent as lambardar on the grounds that the village Panchayat has passed a resolution in his favour. The wife the respondent was herself Sarpanch of the village and she herself passed this resolution. A case u/s 107/151 of Cr. P. C. was registered against her. The respondent is a photographer by profession who runs a photography studio/shop in Samana which is at a distance of about 10 KMs. The candidature of the petitioner was recommended by more village people through Majornama in his favour and the Ld. Divisional Commissioner, Patiala ignored all these aspects. The petitioner holds better claim than the respondent and this fact has been ignored by Ld. District Collector and Ld. Divisional Commissioner as such the orders passed by Ld. District Collector and Ld. Divisional Commissioner Patiala are not speaking orders and are based on mere conjectures and surmises, against the law and facts and are liable to be set aside. The learned counsel for the petitioner prayed that the present revision petitioner may be accepted and the impugned orders dated 13.12.2016 and 14.06.2016 passed by Divisional Commissioner, Patiala and District Collector, Patiala respectively, may be set aside.

5. On the other hand the learned counsel for the respondent rebutted the pleadings submitted by the counsel for the petitioner. He argued that the wife of the petitioner had encroached upon the land of Gram Panchayat. She was removed from the post of Sarpanch by the Director, Rural Development and Panchayat Department after probe in this matter. She filed a false complaint against respondent. He further pleaded that the petitioner is a taxi driver as such he remains absent from the village. The respondent is young man of 39 years of age, has studied up to 10th class and owns 4 kanal land in the village. His candidature was recommended by Assistant Collector 2nd Grade. A majornama has been given by 3 lambardars, one ex-sarpanch and 44 persons of the village in his favour. The wife of the respondent has been elected as Sarpanch of the village uncontested with the consent of the villagers. He further

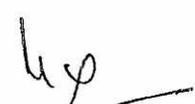
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pleaded that the petitioner has failed to give any cogent arguments and to prove himself more meritorious than the respondent on any account. Nothing adverse against the respondent has been proved by the petitioner. The counsel for the respondent prayed that the revision petition may be dismissed being devoid of any merit.

6. I have given a deep and thoughtful consideration to the copies of the orders of the lower courts placed on the file and have also considered the arguments advanced by both the counsels. The pleadings of the Id. counsel for the petitioner are not tenable. He has not produced anything adverse against the respondent. Upon consideration of the well reasoned orders of the lower courts, I am of the view that the findings recorded in this case by the Id. District Collector, Patiala as well as by the Id. Divisional Commissioner, Patiala are based upon proper appraisal of facts and merits. The learned Divisional Commissioner, Patiala while passing the impugned order has already considered the pleadings of the learned counsel for the petitioner. No new fact has been brought on record by the counsel for the petitioner before this court for consideration. It is a settled law that the choice of Lambardar is primarily the prerogative of the District Collector. The selection of Lambardar 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 his appointment. The Collector is in an advantageous position to examine the merits and demerits of the candidates. In the present case the concurrent findings of the Id. District Collector, Patiala and Id. Divisional Commissioner, Patiala do not suffer from any error warranting interference of this court. As such, there is no merit in the present revision petition and therefore, the same is dismissed.

Announced.

Chandigarh, dated
The 6th November, 2017


(Deva Pampapathi Reddy)
Financial Commissioner, Punjab.