

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

ROA 37 of 2014

Date of Institution: 28.7.2014

Date of Decision: 11.12.2017

Krishan Kumar son of Mehnga Ram, resident of Tugupatti Village Shatrana, Tehsil Patran, District Patiala.

....Appellant

Versus

Sinder Lal son of Vassaya Ram, (45 years) resident of Village Shatrana, Tehsil Patran, District Patiala.

.....Respondent

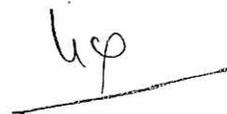
Present: Sh. A.K. Walia, Advocate, counsel for the appellant.

Sh. Suresh Singla, Advocate, counsel for the respondent.

ORDER

This is an appeal filed under section 13 of the Punjab Land Revenue Act, 1887 against the order dated 26.9.2013 passed by Divisional Commissioner, Patiala in matter of appointment of Lambardar.

2. Brief facts of this case are that after the death of Mehnga Ram, earlier Lambardar of village Shatrana, Tehsil Patran, District Patiala, the post of Lambardar fell vacant. Process was started to fill up this vacancy. Proclamation was made in the village and in response to this proclamation, three candidates including the present appellant and respondent applied for this post. After recording the evidence of the candidates and hearing them, Assistant Collector 2nd Grade (Naib Tehsildar), Patran and Assistant Collector 1st Grade (Sub Divisional Magistrate), Patran, recommended the name of present appellant Krishan Kumar and forwarded the case to District Collector, Patiala for appointing suitable candidate as Lambardar. After considering the merits and demerits of the candidates and going through the record placed on file, the District Collector, Patiala appointed the appellant Krishan Kumar as Lambardar of village Shatrana vide order dated 11.9.2012. Against this order, present respondent Sinder Lal filed an appeal before the Divisional Commissioner, Patiala who vide order dated 26.9.2013 accepted the same and remanded the case back to District Collector,



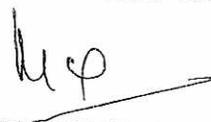
Patiala for passing fresh order on merits after hearing both the parties and considering their merits and demerits. Hence, the present appeal.

3. The learned counsels for both the candidates were heard.

4. The learned counsel for the appellant pleaded that his name was recommended by the Assistant Collector 2nd Grade (Naib Tehsildar), Patran and Assistant Collector 1st Grade (Sub Divisional Magistrate), Patran and the learned Collector, Patiala had rightly appointed the appellant as lambardar. The appellant is more meritorious than the respondent. He has studied up to BA part-II whereas, the respondent claims to be only 5th pass for which he has not produced any documentary evidence on record. Appellant is the son of the deceased lambardar and he has hereditary claim for the post of lambardar. The learned Commissioner has wrongly remanded the case back to District Collector for fresh order on the basis that the appellant is employed in PRTC, Patiala and cannot be available to the people of the village for their official work. The counsel submitted that the appellant is working in night shift and he is available during the day time. He submitted that an FIR was registered against him in which he was acquitted. On the other hand, FIR no. 89 dated 7.5.2010 stands registered at Police Station, Patran against Sinder Singh respondent and as such, he is not eligible to be considered for appointment as lambardar because he does not have clean record. The appellant prayed that the instant appeal may be accepted and the order dated 26.9.2013 passed by the learned Divisional Commissioner, Patiala be set aside and the order dated 11.9.2012 passed by the Collector, Patiala be restored.

5. The learned counsel for the respondent pleaded that the learned Divisional Commissioner has rightly remanded the case back to the District Collector, Patiala for fresh decision as the Collector has not applied his legal mind while appointing the appellant as lambardar. The appellant is employed in PRTC, Patiala and he cannot be available in the village. In this respect, he relied upon 2015 (2) L.A.R. 113 (P&H), 2013 (2) L.A.R. 611 (P&H), 2016(4) R.C.R. (Civil) 1051 (P&H) to substantiate his contention. The counsel produced the copies of the attendance register issued by the office of PRTC. He submitted that the fact regarding the appointment of the appellant has been rightly recorded by the learned Commissioner while remanding the case back to the Collector. The appellant is claiming that he was acquitted in the FIR registered against him. Though the appellant was acquitted in the case yet the stigma remains against him on this count. In support of his contention, he relied upon 2006 (3) R.C.R. (Civil) 313, 2009 (4) R.C.R. (Civil) 808. The counsel submitted that the hereditary claim of the appellant cannot be accepted according to the judgment of Punjab and Haryana High Court reported in 2014 (2) L.A.R. 97. The counsel prayed that the appeal may be dismissed.

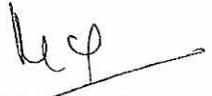
6. I have heard the arguments of learned counsels for the candidates and have given a deep and thoughtful consideration to the copies of the orders of the lower courts placed on the file. I do not agree with the pleadings of the learned counsel for the petitioner. The learned Divisional Commissioner, Patiala has considered the pleadings of the counsel for and has only remanded the case back to the Collector, Patiala for passing fresh order on merits after hearing both



the parties and considering their merits and demerits. He has rightly ordered under his appellate powers. The parties can submit their claims before the Collector. This court cannot accept any evidence at the appellate stage. In view of the above discussions and without expressing any opinion on the merits of the case, I, therefore, dismiss this appeal. The parties are directed to appear before the District Collector, Patiala on 29.12.2017 to put their respective claims.

Announced.

Chandigarh, dated
The 11th December, 2017


(Deva Pampapathi Reddy)
Financial Commissioner, Punjab.