



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA No. 2980 of 2024(O&M)
Date of Decision: 15.02.2025.**

Kamikar Singh

.....Appellant

Versus

State of Punjab and others

..... Respondent

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Sherry K. Singla, Advocate
for appellant.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 19.10.2024 passed by learned Single Judge, whereby CWP No. 10391 of 2017, filed by writ-petitioner namely Joginder Singh, was allowed.
2. Brief facts necessary for adjudication of the matter are that respondent no.3/writ-petitioner, filed CWP No. 10391 of 2017 for setting aside order dated 27.02.2017 passed by the Financial Commissioner (Appeals), Punjab, whereby writ-petitioner was held not suitable for the post of *Lambardar* being in illegal possession of *Shamlat* land.
3. Proceedings for filling up vacancy of *Lambardar* were initiated on demise of Pishora Singh, then *Lambardar* of village Dehleez Khurd, Tehsil Malerkotla, District Sangrur. Eight (08) applications were received in response to the proclamation, including one (01) by writ-petitioner and the

present appellant, who was arrayed as respondent no.3 in the writ petition. After verification of their antecedents Naib Tehsildar Ahmedgarh and Sub Divisional Magistrate, Malerkotla recommended the name of writ-petitioner Joginder Singh for appointment to the post of *Lambardar* and forwarded the file to Collector, Sangrur, who vide order dated 16.01.2013 ordered appointment of Joginder Singh as *Lambardar* of village Dehleez Khurd, after considering relative merits and demerits of all candidates.

4. Appeal filed by present appellant against this decision was dismissed by Commissioner, Patiala Division Patiala on 08.01.2015. However, revision petition filed by present appellant was allowed by Financial Commissioner (Appeals) Punjab vide order dated 27.02.2017. Aggrieved therefrom, CWP No. 10391 of 2017 was filed by writ petitioner i.e., respondent no. 3 in this appeal.

5. Notice of motion was issued in the writ petition with operation of order dated 27.02.2017 being stayed.

6. Learned Single Bench on considering the documents on record, facts and circumstances concluded that order dated 27.02.2017 was unsustainable as there was no evidence to show that writ petitioner was in illegal possession of *Shamlat* land. Order dated 27.02.2017 was thus set aside while upholding order dated 16.01.2013 passed by the Collector, Sangrur and as upheld by Commissioner, Patiala, vide order dated 08.01.2015.

7. Aggrieved therefrom, present appeal has been filed by appellant/ respondent No.3 in the writ petition.

8. Learned counsel for the appellant vehemently argues that learned Single Bench has grossly erred in law and on facts in allowing the writ petition filed by the writ petitioner. Reference is made to inquiry report

dated 27.07.2012, which was attached by present appellant as Annexure R-1 with the written statement filed on his behalf before the Writ Court to submit that writ-petitioner has grabbed common land which is meant for a pond of the village opposite his ancestral house. Therefore, illegal possession is clearly proved. It was thus prayed that this appeal be allowed.

9. We heard learned counsel for the appellant and have carefully gone through the file.

10. District Collector, Sangrur, vide order dated 16.01.2013 has dealt with allegations of writ-petitioner being in unauthorized possession of *Shamlat* land and negated the same while referring to report of the Sub-Divisional Magistrate, Malerkotla, wherein it is mentioned that Khasra No. 34 measuring 80 K 50 Marlas is the designated Abadi Deh. There is admittedly no proof regarding ownership of area within the Abadi Deh. Allegation of being in illegal possession over *Shamlat Deh* was thus not proved against Joginder Singh.

11. This order was upheld by the Divisional Commissioner, vide order dated 08.01.2015 while observing that no documentary evidence in regard to such allegation was proved. It is specifically observed in order dated 08.01.2015 that there was no ground to negate the recommendations made by the Revenue Officers including the District Collector. Writ-petitioner, a son of a former *Lambardar* had worked as *Sarbarah Lambardar* for three years and was well conversant with duties of *Lambardari* and nothing adverse was found against him. The Financial Commissioner, while passing order dated 27.02.2017 has relied solely upon the report of Sub-Divisional Magistrate and demarcation done by the revenue authorities to hold that writ-petitioner was in illegal possession of *Shamlat Deh*.

12. As per said report, land in question was of Abadi Deh and that

Joginder Singh son of Pishora Singh etc., has grabbed common land of the village which is opposite to his ancestral house towards the pond. Learned Single Bench after reproducing report dated 27.01.2012 in para 7.1 of impugned order has correctly held as under:-

“7.2 A bare perusal of the afore-said report would indicate that the same is not conclusive as regards the un-authorized possession by the petitioner. The said report simply says that the petitioner has grabbed the common land of the village, which is opposite to his ancestral house towards the pond side, which is approximately 5 Biswas. However, it has further been stated that at the time of consolidation, the department had made this entire land as a part of Khasra No.34 measuring 80 Kanals 15 Marlas as Abadi Deh, therefore, there is no evidence of ownership regarding the same. In my considered view, once the ownership of land alleged to be in possession of the petitioner is not forthcoming; it is not decipherable as to on what basis, it is stated that the petitioner has grabbed common land. That apart, had the petitioner been in the un-authorized possession of any common land/Shamlat land/Public land, some eviction proceedings would have been initiated against him by now, considering the fact that the said report was made way back in the year 2012, however, nothing of that sort has been brought on record.

8. Be that as it may, the afore-said allegations of un-authorized possession by the petitioner were duly considered by the learned Collector, Sangrur, who held that the allegation against the petitioner regarding the illegal possession of Shamlat land is not proved. The order passed by the learned Collector was upheld by the learned Divisional Commissioner.

8.1 It is well settled position of law that the choice of Collector in the matter of appointment of Lambardar is not to be lightly interfered with, even if two views are possible, unless there is any patent illegality or perversity therein. (See *Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab, 2016(1)*)

RCR (Civil) 273).”

13. Learned counsel for appellant is unable to point out any illegality, infirmity or perversity in the impugned order dated 19.10.2024, passed by learned Single Bench, which calls for interference by this Court.

14. No other argument has been addressed.

15. Keeping in view the facts and circumstances as above, this appeal is dismissed being devoid of any merit. Pending application(s), if any, stand(s) disposed of accordingly.

**(LISA GILL)
JUDGE**

**(ALOK JAIN)
JUDGE**

February 15, 2025.

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No