

***** Vs. Financial Commissioner Haryana and Others

***** Vs. Financial Commissioner Haryana and Others

SooperKanoon Citation : sooperkanoon.com/1091191

Court : Punjab and Haryana

Decided On : Sep-17-2013

Appellant : *****

Respondent : Financial Commissioner Haryana and Others

Judgement :

CWP No.19671 of 2012 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH ***** CWP No.19671 of 2012 Date of Decision:17.09.2013 *****
Maman Chand .

.Petitioner Versus Financial Commissioner, Haryana and others .

.

Respondents ***** CORAM: HONBLE MR.JUSTICE RAKESH KUMAR JAIN *****
Present: Mr.Aman Pal, Advocate, for Mr.M.P.S.Chandel, Advocate, for the
petitioner.

Mr.Nitin Kaushal, AAG, Haryana.

***** RAKESH KUMAR JAIN, J.

The post of Lambardar (Backward Category) of Village Sangha, Tehsil and District
Bhiwani, fell vacant after the death of Shri Sadik.

The Assistant Collector IInd Grade and Ist Grade recommended the name of respondent No.5 to the Collector but he appointed the petitioner as a Lambardar on 29.6.2007.

Respondent No.5 filed appeal against the order of the Collector, which was dismissed on 23.6.2008 but as his revision was allowed by the Financial Commissioner on 18.10.2011 on the ground that the Collector has erred in ignoring the fact that respondent No.5 is the son of deceased Lambardar and was recommended by both the Assistant Collectors IInd Grade and Ist Grade, respectively.

CWP No.19671 of 2012 -2- Learned counsel for the petitioner has submitted that respondent No.5 is a permanent employee, working as Gramin Dak Sewak in Sangha Post Office, since 10.1.1990 as per the information sought under the Right to Information Act, 2005 from the office of Superintendent Post Office, Bhiwani Division, which is also attached as Annexure P-4.

Even otherwise, it is submitted that the reasons assigned by the Financial Commissioner while upsetting the order of the learned Collector and Commissioner are patently illegal because the Collector is not bound by the recommendations of the Assistant Collectors IInd and Ist Grade as he is the appointing authority, who would apply his own mind to the merits and demerits of the candidates.

Moreover, it is submitted that even being the son of the deceased Lambardar is not a right of respondent No.5 as the hereditary claim has already been struck down by this Court as ultra vires.

It is further submitted that until and unless the revisional Court find any perversity in the order of the Collector, the choice of the Collector should not be interfered.

I have heard learned counsel for the parties and on perusal of the record, I am of the considered opinion that the impugned order passed by the Financial Commissioner dated 18.10.2011 is patently illegal and is liable to be set aside because it is now well settled that choice of the Collector should not be ordinarily

interfered until and unless there is a perversity in his order.

Insofar as the CWP No.19671 of 2012 -3- recommendations of the Revenue Officers are concerned, those are not binding upon the Collector, who has to make his choice independently on the basis of evidence brought before him and since the hereditary claim is no more available, respondent No.5 cannot be given any advantage in that regard who is otherwise permanent employee as Gramin Dad Sewak in the Post Office, Sangha, Bhiwani since 10.1.1990 and would not be available either to the villagers or to the Revenue Officials for the purpose of performing his duties which are enumerated in Rule 20 of the Punjab Land Revenue Rules (applicable to the State of Haryana). Hence, the present writ petition is allowed and the order of the Financial Commissioner is quashed.

(RAKESH KUMAR JAIN) 17.09.2013 JUDGE Vivek Pahwa Vivek 2013.09.20
16:23 I attest to the accuracy and integrity of this document

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com