

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

216 Civil Writ Petition No.26958 of 2015

Date of Decision: November 26th, 2019 Satnam Singh ...Petitioner

Versus

Financial Commissioner, Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. A.P. Singh, Advocate for the petitioner. Mr. Charanpreet Singh, Assistant Advocate General, Punjab. Mr. Raj Kumar Rana, Advocate for respondent No.5. AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 20.05.2009 (Annexure P-6) passed by the Collector, Patiala, order dated 17.06.2010 (Annexure P-7) passed by the Divisional Commissioner, Patiala Division, Patiala and order dated 17.08.2015 (Annexure P-10) passed by the Financial Commissioner, Punjab, whereby the appointment of respondent No.5-Jagtar Singh has been upheld as Lambardar of Village Basma, Tehsil Rajpura, District Patiala. 2. It is the contention of learned counsel for the petitioner that respondent No.5 has played a fraud upon the official respondents and the State as he had with a mala fide intention shown purchase of the land by way of sale deed dated 23.06.2008 (Annexure P-5). This was only shown with an intention to fulfill the eligibility condition for appointment to the post of Lambardar. He asserts that the said land, which has been purchased by him, has been sold by him to the earlier seller on 17.01.2011 (Annexure P-8). He contends that the said aspect has been found to be 1 of 3 :: Downloaded on - 04-12-2019 20:42:31 :: CWP No.26958 of 2015 2 correct by the revenue authorities as well. He, therefore, contends that the appointment of respondent No.5 having been based upon a fraud having been played upon the State, cannot be sustained and deserves to be set aside. He, however, has brought to the notice of the Court that in pursuance to the said action of the said respondent, his appointment as Lambardar of village has been cancelled by the District Collector, S.A.S. Nagar, vide order dated 04.07.2016. 3. Learned counsel for respondent No.5, on the other hand, asserts that on the date of appointment of the said respondent i.e. 20.05.2009 (Annexure P-6), he was eligible and, therefore, appointment of the said respondent could not be said to be illegal. Since the appointment of respondent No.5 has been cancelled/he has been removed, the present writ petition has been rendered infructuous. His further assertion is that the date of eligibility is the date of appointment by the Collector for a Lambardar and in support of his contention, he has placed reliance upon the judgment of the Supreme Court in case of Inderaj Versus Financial Commissioner 1994 (3) R.R.R. 562. 4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case as well as the judgment of the Supreme Court. 5. Firstly in the light of the eligibility to be seen being the date of appointment on the post of Lambardar in the light of the judgment in Inderaj's case (supra), appointment of respondent No.5-Jagtar Singh cannot be said to be illegal as on the said date, he was eligible for appointment to the post of Lambardar. In case of any violation of the statutory rules at a subsequent stage by a Lambardar, the competent authority i.e. the 2 of 3 :: Downloaded on - 04-12-2019 20:42:32 :: CWP No.26958 of 2015 3 District Collector is entitled to take action against such an appointed Lambardar which has been taken by the

District Collector, S.A.S. Nagar, by passing an order dated 04.07.2016. In the light of removal of respondent No.5 from the post of Lambardar, the present writ petition, in any case has been rendered infructuous. 6. It may be added here that this Court has not gone into the validity or otherwise of the order dated 04.07.2016 passed by the District Collector, S.A.S. Nagar, lest respondent No.5 is prejudiced in any manner in case he would have preferred any appeal or any other statutory remedy. 7. The writ petition, therefore, stands disposed of as infructuous. November 26th, 2019 (AUGUSTINE GEORGE MASIH) Puneet JUDGE Whether speaking/reasoned: Yes Whether Reportable: No 3 of 3 ::: Downloaded on - 04-12-2019 20:42:32 :::