



In the Court of Additional Commissioner, Jammu
(With the powers of Divisional Commissioner)
(Rail Head Complex, Jammu)
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File No
LA/0000000472/2023

Date of Institution
26.08.2023

Date of Decision
26.08.2023

Bishan Lal, Age 54 years S/o Late Sh. Daya Ram, R/o Village Kunan, Tehsil Gandoh,
District Doda

....Petitioner

Versus

Tehsildar, Gandoh (Bhalessa)

....Respondent

In the matter of :- Petition under J&K Lambardari Act read with J&K Land Revenue Act seeking direction to the Respondent to formally appoint the petitioner as Lamberdar in Village Kunan Tehsil Gandoh District Doda being the most eligible and efficient candidate for the same and in view of the uninterrupted candidature of the petitioner since 1993.

ORDER

26.08.2023: The present petition has been transferred to this court by the Learned Divisional Commissioner, Jammu vide No. 801/Reader/Div-Com/442-43 dated 26.08.2023. Ld. Counsel for the petitioner appeared and stated that direction may be issued to the respondent to appoint the petitioner as temporary Lambardar in village Kunan Tehsil Gandoh District Doda being eligible and efficient candidate for the same. When the Ld. Counsel for the petitioner was informed that he shall approach the Deputy Commissioner, Doda being the competent authority, moreso in view of the circular instructions issued by Financial Commissioner, Revenue, J&K vide No. 667/FC-AP dated 05.09.2022 wherein it has been observed as:-

".....that the orders of Revenue Officers like Tehsildars/Naib Tehsildars, which otherwise are appealable before the Collectors concerned, are directly being challenged by way of revision petitions before the Court of Financial Commissioner (Revenue) as well as Divisional Commissioners / Commissioner Survey & Land Records, without availing the remedy of appeal. Similarly, under Agrarian Reforms Act, Additional Deputy Commissioners have been vested with the powers of Commissioner Agrarian Reforms within their respective Districts for hearing appeals against the orders of Collectors or Revenue Officers of rank lower than that of Collector, but instead of approaching the said forum, the appeals are directly preferred before this Court. This not only over-burdens the Revisional Courts but also causes inconvenience to the litigants, especially those belonging to far-flung districts apart from legal ramifications of forum hunting, reduction of forums provided by the statute among other things.

Soly
Additional Commissioner
JAMMU

In this regard, the Hon'ble High Court in LPA No. 193/2019 Dated 10.02.2020 titled "Abdul Hamid and Ors Versus Divisional Commissioner Jammu and Ors, has held as under:-

"The matter needs to be examined from another angle, that is to say that, if any party as per his choice is left open to avail the remedy of appeal or revision, same may result in forum hunting. Against the same order the aggrieved party may choose a forum more suitable to him. This cannot be left to the parties aggrieved. A definite system has to be in place which is well defined and applicable to one and all, not leaving it to the option of the party concerned. This has serious ramification even on the opposite party as his remedy to appeal against the order passed by the appellate authority in case an order goes against him is taken away, if at the very first instance revisional jurisdiction is invoked by the opposite party."

The Hon'ble High Court in the above said judgement has also held as under:-

"Before parting with this case, we deem it appropriate to direct that, to avoid generation of unnecessary litigation and forum hunting by the parties, all the authorities under different statutes in the state, who pass the quasi-judicial order or even administrative orders against which a statutory remedy is provided under the applicable law and a period of limitation also prescribed, shall mention on the preface of the order itself about the authority before whom the order can be challenged in appeal or by way of any other remedy and also the period of limitation for the purpose. As there is a widespread practice prevalent here in the Union Territory amongst officers to exercise powers, which are not vested in them, it shall also be mandatory for them to specify in the order, the provisions of the relevant statutes/rules under which the order has been passed",

Ld. Counsel for the petitioner stated that the present petition may be transferred to Deputy Commissioner, Doda. In view of the circular instructions of Financial Commissioner, Revenue, J&K vide No. 667/FC-AP dated 05.09.2022 and the submissions of the Ld. Counsel for the petitioner, the present petition is remitted to Deputy Commissioner, Doda with the remarks to consider the same as representation and pass appropriate order strictly in terms of law governing the subject. Copy of the order along with the petition in original shall go to Deputy Commissioner, Doda.

Announced
26.08.2023

Sd/-
(Pawan Kumar Sharma) KAS
Additional Commissioner, Jammu
[with the powers of Divisional Commissioner]

g/c website


Reader to
Additional Commissioner
Jammu