

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

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Civil Writ Petition No.25768 of 2017

Date of Decision: November 1st, 2019

Jagtar Singh

...Petitioner

Versus

Financial Commissioner Revenue, Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Amandeep S. Rai, Advocate
for the petitioner.

Mr. T.P.S. Chawla, Deputy Advocate General, Punjab,
for respondents No.1 to 3.

Mr. Rajinder Singh Dhaliwal, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 24.04.2017 (Annexure P-3) passed by the Financial Commissioner, Revenue, Punjab, whereby the revision appeal preferred by respondent No.4-Sarabjit Kaur, who has been appointed the Lambardar by the Collector vide order dated 06.11.2013, which order was set aside by the Commissioner vide order dated 12.11.2014 (Annexure P-2), has been allowed.

2. It is the contention of learned counsel for the petitioner that the petitioner is younger in age than respondent No.4 and holds a professional diploma in Mechanical Engineering with more land as compared to respondent No.4 and, therefore, is a much more qualified person to be appointed to the post of Lambardar. He contends that Sarabjit Kaur may also be a graduate i.e. B.A. pass but she owns land which is much lesser than what the petitioner owns and is older in age to the petitioner. He contends that since the petitioner is well qualified, is younger in age and has more

land as compared to respondent No.4, he would be entitled to appointment to the post of Lambardar vis-à-vis respondent No.4. His contention is that the Financial Commissioner while passing the impugned order dated 24.04.2017 (Annexure P-3) has not taken into consideration the comparative merits of the candidates but has only mentioned that the Collector has discussed merits and demerits of the candidates and that the choice of the Collector should not have been disturbed by the Commissioner by interfering in the appeal. He, thus, contends that the impugned order dated 24.04.2017 (Annexure P-3) passed by the Financial Commissioner, Punjab, and the order dated 06.11.2013 passed by the District Collector, Sangrur, cannot sustain and deserve to be set aside.

3. On the other hand, learned counsel for respondent No.4 has supported the orders passed by the Financial Commissioner as well as the Collector by asserting that the comparative merits of the candidates have been duly considered by the Collector. It has further been asserted that the Collector has himself interacted with the candidates and found respondent No.4 to be a better candidate vis-à-vis the other candidates and, therefore, has proceeded to appoint respondent No.4 as the Lambardar of the village. He contends that merely because respondent No.4 is a lady and has a nine years old son can itself not be a disqualification to be attached for treating her to be not fit for appointment to the post of Lambardar, as mention by the Commissioner to have been argued by the counsel for the petitioner. However he points out that respondent No.4 lives in a joint family and the other members of the family can take care of the only son, who is also now grown up. He on this basis contends that respondent No.4 being more

qualified and found to be more suitable candidate has been appointed by the Collector and the choice of the Collector should not be interfered with.

4. I have considered the submission made by the counsel for the parties and with their assistance, have gone through the impugned orders.

5. On perusal of the order passed by the Collector appointing respondent No.4 as Lambardar of the village, it is apparent that the comparative merits of all the candidates, who appeared, were duly considered. The comparative merits of the candidates have also been assessed keeping in view their respective merits and demerits. As is apparent from the records and the consideration of the candidates, respondent No.4 has been found to be the most qualified. Land which is owned by a candidate has now by and large lost its relevance with the exemption from land revenue and the security for that purpose, therefore, has ceased to some extent except for determining that the candidate is available in the village and in case of some recovery to be effected from the candidate because of any loss which may have been caused, some land is required as security. Therefore, area of a particular candidate which is owned, may not be relevant for now. It is not the case of the parties that respondent No.4 has no land at all in her name. As a matter of fact, she has 8 *kanals* and 6 *marlas* which is sufficient for the purpose of security of the interest of the State. Being more qualified and mature apart from these aspects, respondent No.4 has been found to be the most suitable candidate during interaction with the Collector. Collector is the officer with whom the candidates have interacted and thus, is the best judge, who would assess the suitability of a candidate for the responsibility of the post of Lambardar.

6. Merely because respondent No.4 is a woman, the same cannot be taken as a disadvantage, rather credit should be given to the candidates, who come forward to take up the responsibility of a Lambardar, especially when the said candidate is the most qualified and has been found to be suitable by the Collector. Merely because the petitioner is younger in age as compared to respondent No.4 cannot be a ground in itself for appointing him to the post of Lambardar. The intent and purpose for mentioning that the younger candidate may be appointed is to see the capability and capacity of a candidate to perform the responsibilities and duties of the post of Lambardar, so that at times, infirm persons may not be appointed. That was primarily a purpose for providing the consideration of the age of the candidate. Age of the petitioner is 22 years, whereas respondent No.4 is 32 years and, therefore, they are both in the prime of their age and thus, the choice of the Collector cannot be faulted with.

7. The settled principle of law is that interference in the order passed by the Collector exercising his choice when not found to be suffering from any vice, arbitrariness or violation of any of the statutory rules/instructions by the authorities higher than the Collector, is not called for. Present is a case where Collector has passed an order after proper consideration of candidature of each of the candidates, which cannot be faulted with.

8. Finding no merit in the present writ petition, the same, therefore, stands dismissed.

November 1st, 2019

Puneet

(AUGUSTINE GEORGE MASIH)

JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes