

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

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**CIVIL WRIT PETITION NO.4433 OF 2018
DATE OF DECISION: FEBRUARY 13, 2019**

Vijay Kumar Rana

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sunil Agnihotri, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court, challenging the appointment of Sukhdev Singh son of Gurdas Singh, respondent No.4, as a Lambardar of Village Rajpur, Post Office Bhangala, Tehsil Dasuya, District Hoshiarpur, by the District Collector, Hoshiarpur, vide order dated 12.03.2015 (Annexure P-1), appeal against which preferred by him before the Divisional Commissioner, Jalandhar Division, Jalandhar, stands dismissed vide order dated 14.12.2016 (Annexure P-3) and the order of Financial Commissioner (Appeal II), Punjab-respondent No.2, whereby the revision petition preferred by the petitioner has been dismissed on 27.07.2017 (Annexure P-4).

It is the contention of learned counsel for the petitioner that the only ground which has weighed with the authorities for giving preference to respondent No.4 over and above the petitioner is the ownership of more

land in comparison to the petitioner. Counsel for the petitioner contends that the petitioner is an ex-serviceman as he has retired as Naib Subedar. He remained sarbrah Lambardar for a period of 10 years as his father was the Lambardar and was not keeping good health. He further contends that the petitioner has a preferential hereditary right over the others in the light of Rule 15 of the Punjab Land Revenue Act. Even no weightage has been given to the experience of the petitioner. That apart, counsel contends that respondent No.4 is running a shop of spare parts in the name and style of 'Ramgarhia Combine Spare parts' at Village Bhangala whereas the Lambardari is of village Rajpur. He further states that respondent No.4 is not available in the village where he has to perform the duties of a Lambardar. Assertion has also been made that said respondent has been in custody for a period of almost one month in a criminal complaint registered under the SC and ST Act. He submits that with these dis-qualifications attached with respondent No.4, his candidature could not have been accepted by the Collector and the other authorities and, thus, the impugned orders cannot sustain and deserve to be set-aside.

I have considered the submissions made by learned counsel for the petitioner and with his assistance have gone through the records of the case.

Petitioner although was a sarbrah Lambardar for 10 years; is of the age of 59 years; a matriculate and owns 10 kanals 15 marlas of land whereas on the other hand, respondent No.4 is 44 years of age with ownership of 32 kanals 9 marlas of land in the village. Although the petitioner has remained the sarbrah Lambardar and, therefore, has put forth his hereditary claim as per Rule 15 of the Punjab Land Revenue Act but the

same cannot be claimed as a matter of right and other factors like age, qualification, land holding etc. are also to be taken into consideration. It has been held by this Court and even by the Hon'ble Supreme Court that where the qualifications and other factors are similar qua two candidates, one with a hereditary right and being a sarbrah Lambardar may be given preference but this is not a situation in the present case as far as the qualifications are concerned.

Now advertng to the disqualification asserted on the part of the petitioner as far as respondent No.4 is concerned, suffice it to say that merely because the shop is being run by him in an adjoining village, distance whereof has not been mentioned, it cannot be said in the present era of fast mode of transportation and latest technology where on mobile phone any person can be contacted at any time, this can no more be taken as a disqualification.

With regard to assertion of counsel for the petitioner that respondent No.4 had been in custody for a month in a criminal complaint registered against him, it is apposite to mention here that he was not convicted in the said case and rather he was acquitted honourably. Said period of custody, therefore, cannot be taken as negative qua his qualifications.

Otherwise also, it is settled proposition of law that choice of the District Collector should not be interfered with lightly and in the present case the said principle, apart from the pleadings of the parties, has been duly considered by all the authorities while passing the impugned orders. No illegality or irregularity has been found in these impugned orders.

Therefore, finding no merit in the present writ petition, the same stands dismissed.

February 13, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No