

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

CWP-1202-2022

Date of decision : 17.10.2023

Chander Bhan

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Chander Shekhar Singhal, Advocate
for the petitioner.

Mr. Sumit Gupta, Addl. AG, Haryana.

Mr. Ashutosh Kaushik, Advocate
for respondents No.4 and 5.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the impugned order dated 24.12.2021 (Annexure P-5) passed by respondent No.1 being illegal and contrary to law as well as against the principle of natural justice.

Adumbrated facts of the case are that the petitioner has assailed the impugned order dated 24.12.2021 passed by respondent No.1 primarily on the ground that respondents No.4 and 5 filed separate revision petitions without impleading the petitioner as a necessary party in the same as he was the newly appointed Lambardar of Village Bibipur. It is apposite to mention that the dispute for the post of Lambardar is pertaining to Village Bibipur and thus, respondent No.4 is the relevant respondent for the redressal of the grievance raised by the petitioner whereas respondent No.5 is not the relevant respondent as he is resident

of the different village namely, Buhawa against whom the petitioner claimed no relief.

As per the facts of the case, respondent No.4-Sher Singh and respondent No.5-Jeet Ram were appointed as Lambardar of the Village Bibipur and Buhawa respectively in the year 2010. Thereafter, one Shabnam Begam filed a complaint dated 25.03.2015 against both of them alleging that they took Rs.600/- from her for attesting the affidavit. The enquiry was conducted on the complaint filed by Shabnam Begam by Sub Divisional Officer (Civil), Shahabad and on receipt of report of the same, both the Lambardars i.e. respondent No.4 namely, Sher Singh and respondent No.5 namely, Jeet Ram after having been granted the opportunity of personal hearing were dismissed from their post by the District Collector, Kurukshetra vide his order dated 03.07.2015 and it was further directed by the learned District Collector for initiating the process for the appointment of some other persons as Lambardar in their place. In pursuance to the same, the process for the appointment of the new Lambardar of the Village Bibipur was initiated and hence *munadi* was conducted for inviting the applications from the interested candidates. In pursuance to the same, the applications were received from Chander Bhan (petitioner), Mehar Chand, Labh Singh and Jaswinder Singh. The character verifications of the applicants were got done. Labh Singh and Jaswinder Singh did not appear before the Collector and thus, they were proceeded *ex parte*. Hence, two candidates namely, Chander Bhan (petitioner) and Mehar Chand remained in the fray for the appointment of new Lambardar. Learned Collector on comparison of *inter se* merits of both the candidates found Chander Bhan to be more meritorious being 35

years of age and M.Com by qualification. Besides this, he owned 56 kanals 15 marlas 08 sarsai land. Resultantly, the Collector appointed Chander Bhan as Lambardar of the Village vide his order dated 27.07.2016. It was observed by him in the appointment order that the decision of the appeal filed before the Commissioner, Ambala would be valid. This order passed by the Collector was neither challenged by the petitioner nor by respondents No.4 and 5. However, respondents No.4 and 5 assailed the order of their dismissal passed by the District Collector dated 03.07.2015 by way of filing their respective appeals before the Commissioner Ambala Division. Both the appeals were heard together by the learned Commissioner and finding no merit in the appeals filed by them, the same were dismissed by learned Commissioner vide his order dated 05.09.2017. It is pertinent to mention that the petitioner was not impleaded as a party in both these appeals filed by respondents No.4 and 5. Aggrieved by the same, respondents No.4 and 5 assailed the same by way of filing their respective revisions i.e. ROR No.169 of 2017-18 and ROR-170 of 2017-18 before the learned Financial Commissioner, Haryana, Chandigarh. Both the revisions were heard together and decided by the common order dated 24.12.2021. Once again the petitioner was not impleaded as a party in both the revision petitions. Learned Financial Commissioner accepted the revisions filed by respondents No.4 and 5. It was observed that the allegation levelled against both respondents No.4 and 5 were not established in the report filed by Tehsildar SDO(Civil) and thus, the revision petition filed were accepted and both respondents No.4 and 5 were allowed to continue on their post of Lambardar vide impugned order dated 24.12.2021. Petitioner who was already appointed as the new

Lambardar of the Village, being aggrieved by the same, has approached this Court by way of present petition.

Learned counsel for the petitioner has submitted that petitioner was appointed as the Lambardar of the Village after dismissal of respondents No.4 and 5 by learned District Collector from their post of Lambardar vide order dated 03.07.2015. He has submitted that the complete procedure was adopted by conducting the *mustri munadi* and the character verification of all the applicants was done and finding the petitioner most meritorious candidate, he was appointed by the Collector as the Lambardar of the Village vide order dated 27.07.2016. He has submitted that though it was observed by the Collector that the decision of the appeal filed before the Commissioner, Ambala Division would be valid but the appointment of the petitioner was never challenged by the respondents. He has submitted that though the appeal filed by respondents No.4 and 5 were against their dismissal but as the decision of the appeal had a direct bearing on the vested interest of the petitioner and hence, he was the essential party to be impleaded in the appeals but he was never impleaded as a necessary party in the appeals before the Commissioner. He submits that though the appeals filed by respondents No.4 and 5 were dismissed by learned Commissioner however, both of them filed their independent revision petitions against the order passed by the Commissioner again without impleading the petitioner as the necessary party. He submits learned Financial Commissioner i.e. respondent No.1 accepted the revision petitions filed by respondents No.4 and 5 and thus, *set aside* their dismissal order by reinstating them on their post of Lambardar. He submits that the petitioner as evident was the newly

appointed Lambardar and hence, he was necessary party to be impleaded in the revision petitions as well before the Financial Commissioner but respondents No.4 and 5 intentionally did not implead him as a party. He submits that the petitioner after his appointment was working as the Lambardar of the Village. He submits that thus, the impugned order being unsustainable in the eyes of law, has been passed totally in violation of principle of natural justice deserves to be *set aside*.

Per contra, learned counsel for respondents No.4 and 5 has opposed the submissions made by counsel for the petitioner. He has submitted that petitioner has not approached this Court with clean hands and has concealed the material facts. He has submitted that the petitioner has no *locus standi* to file the present petition. It is submitted that the petitioner if at all is aggrieved only against the reinstatement of respondent No.4 namely, Sher Singh and not against respondent No.5 Jeet Ram. He submits that the dispute in hand pertains to the post of Lambardar in Village Bibipur and same has no concern with the post of Lambardar in Village Buhawa to which respondent No.5-Jeet Ram belongs. He submits that respondents No.4 and 5 were duly appointed as Lambardar of their respective villages. He further submits that once Shabnam Begam filed one frivolous complaint against both of them and on the same, the SDO(Civil) conducted enquiry totally in violation of the settled principles of law and hence, learned Collector dismissed both respondents No.4 and 5 from their posts. It is submitted that respondents No.4 and 5 challenged the same by way of filing the appeal before the Commissioner which were illegally dismissed by the Commissioner. It is submitted that the petitioner was not a necessary party to be impleaded in

the appeals as the appeals were filed against the illegal dismissal of respondents No.4 and 5 and thus, non-impleadment of the petitioner as a party in the appeals amounted to no illegality. It is also submitted that the petitioner was aware about the pendency of the appeal and if he was aggrieved, he could have filed the appropriate application for his impleadment as a necessary party in the appeal. He has submitted that aggrieved with the order passed by the Appellate Court, respondents No.4 and 5 filed their independent revision petitions before learned Financial Commissioner. However, learned Financial Commissioner finding merit in the revision petitions accepted both the revision petitions and thus, *set aside* the dismissal order passed by the Collector and respondents No.4 and 5 were reinstated on their post. He reiterated his contention that the petitioner was not a necessary party to be impleaded in the revision petitions and thus, the impugned order dated 24.12.2021 suffers from no perversity. He further submits that the appointment of the petitioner as Lambardar was conditional and once respondent No.4 was reinstated on his post of Lambardar in the Village Bibipur, the appointment of the petitioner automatically comes to an end as he had no right to continue on this post as respondent No.4 who was already appointed on this post had been reinstated by learned Financial Commissioner vide his order dated 24.12.2021. He has also submitted that the petitioner has no concern whatsoever with respondent No.5 as he belongs to the different Village namely, Buhana whereas, petitioner was aggrieved against the order of reinstatement of respondent No.4 who belongs to Village Bibipur. He submits that hence the petitioner has no *locus standi* to file the petition against re-instatement of respondent No.5 namely, Jeet Ram.

Learned State counsel has submitted that respondents No.4 and 5 were dismissed from their post in view of the enquiry carried out by SDO(Civil) on the basis of complaint filed by Shabnam Begam. He submits that after their dismissal, the process for the appointment of new Lambardar was initiated in which the petitioner was appointed. It is submitted that after reinstatement of respondent No.4, no action was taken by the State regarding the appointment of the petitioner which has been contended by counsel for respondents No.4 and 5 as conditional appointment.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the petitioner who was appointed as new Lambardar of the Village for which process was initiated on the dismissal of respondents No.4 and 5 on the basis of the complaint filed by Shabnam Begam. Though respondent No.5 belongs to a different Village however, the complaint was made by Shabnam Begam against both of them on the allegation of taking Rs.600/- from her for the attestation of the affidavit. The enquiry was also carried out against both of them and after finding the allegations made in the complaint to be true, both of them were dismissed by learned Collector. Thereafter, petitioner was appointed as the Lambardar of the Village by adopting fresh process for appointment of Lambardar. It was observed by the Collector at the time of his appointment that the order passed in the appeal before the Commissioner would be valid. Thus, it cannot be ignored that the outcome of the appeal had a direct bearing on the appointment of the Lambardar of the Village Bibipur and hence, the petitioner was a necessary party. However, as apparent the petitioner was not impleaded as a party in the appeals and

the appeals were decided without hearing him. After the appeals filed by respondents No.4 and 5 were dismissed, they filed the fresh independent revision petitions before the Financial Commissioner in which again the petitioner was not impleaded as a party and thus, the impugned orders were passed without hearing the petitioner. This Court cannot ignore the fact that the petitioner was also appointed as new Lambardar of the Village by the respondents-State by adopting the due process of appointment in accordance with the law. Hence, he was a necessary party to be heard by the Commissioner and also was a necessary party in the revision petitions filed before the Financial Commissioner as the same had a direct bearing on his appointment as Lambardar. Thus, the Court finds a violation of the principle of natural justice committed by both the Appellate and Revisional Courts before passing the orders as the petitioner was never heard by both the Courts. It is evident that after reinstatement of respondent No.4, the same would prejudice the interest of the petitioner who had never been heard by the Appellate and Revisional Court. It has been argued by learned counsel for respondents No.4 and 5 that respondent No.5 belongs to a different Village and thus, the petitioner had no *locus standi* to challenge his reinstatement. However, it is apparent that the allegations made in the complaint filed by Shabnam Begam were against both these respondents and enquiry was also carried out by the SDO(Civil) against both of them, on the basis of the which, both were dismissed by the Collector. The appeals as well as revision filed by both of them were heard together. Hence, this Court do not find it appropriate to segregate their case at this stage. Hence, in the interest of justice, this Court finds that the order passed by the Revisional

Courts is required to be set aside. Although the appeals were heard by the Commissioner in the absence of petitioner but as the same were dismissed so the decision given by Commissioner cannot be said to have adversely affected the interest of the petitioner. But as far as order dated 24.12.2021 of Financial Commissioner vide which ROR were allowed is concerned, the same affects the rights of the petitioner so the same is *set aside* by directing the Revisional Court to hear the revision filed by respondents No.4 and 5 by impleading the petitioner as a necessary party. The parties would appear before the Revisional Court on 20.11.2023 and the Revisional Court would decide the same afresh expeditiously by giving an opportunity of hearing to all the parties, preferably within a period of three months from the date of receipt of certified copy of this order.

17.10.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No