

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

CWP-20027-2023

Date of decision : 12.09.2023

Harkamalpreet Singh

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Hemraj Bhardwaj, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

This petition has been filed praying for quashing the impugned order dated 22.09.2022 (Annexure P-1) passed by learned Financial Commissioner; impugned order dated 31.01.2020 (Annexure P-3) passed by learned Commissioner, Rupnagar and impugned order dated 23.04.2018 (Annexure P-5) passed by learned District Collector, Rupnagar vide which learned District Collector, Rupnagar appointed respondent No.5 as Lambardar of Village Morinda, District Rupnagar without appreciating the merits of the case and even that petitioner is more qualified and more eligible candidate as Lambardar of the Village as provided under Punjab Land Revenue Act.

Adumbrated facts of the case that on the demise of Lambardar Tejpal Singh of Village Morinda on 14.12.2016, post of Lambardar fell vacant and the process for appointment of new Lambardar was initiated. Hence, after receiving the necessary approval, mustri munadi was conducted by Tehsildar Morinda to invite the applications from the eligible candidates. In pursuance to the same, seven applications were received within the stipulated time from the candidates namely, Harkamalpreet Singh son of

Late Tejpal Singh; Vagish Sood son of Subhash Chander Sood; Hardeep Singh son of Bant Singh; Sachin Pur son of Rajkumar; Amandeep Singh son of Sukhwinder Singh; Sukhbir Singh son of Santokh Singh and Harinder Singh son of Balwinderjit Singh. Their character verification was conducted from the police. Three candidates namely, Sachin Pur, Sukhbir Singh and Harinder Singh were proceeded *ex parte* for their non-appearance before the Court of Tehsildar, Morinda and one of the candidates namely, Amandeep Singh withdrew his application in favour of Hardeep Singh. Thus, Tehsildar, Morinda vide his report dated 25.01.2018 recommended the name of Harkamalpreet Singh for the post of Lambardar and the case was forwarded to the Sub Divisional Magistrate, Morinda. Pursuant to the same, Sub Divisional Magistrate, Morinda vide his report dated 06.02.2018 recommended the name of Hardeep Singh for the post of Lambardar. On evaluation of the merits of petitioner and respondent No.5, their comparative merits were found as follows:-

Sr. No.	Particulars	Petitioner (Harkamalpreet Singh)	Respondent No.5 (Hardeep Singh)
1	Age	29 years	45 years
2	Education Qualification	12 th pass and done B.Tech in year 2018	Matric pass
3	Agricultural Land	6 Bighas	61 Bighas, 15 Biswa
4	Recommendation	Lambardars, MCs, Panches of Village and A.C. 2 nd Grade, Morinda	Lambardars, MCs, Panches of Village Morinda & S.D.M.
5	Experience	He was having experience of Lambardari works being as son of deceased Lambardar	No
6	Participation	He is participating in all the social welfare works	No

Learned Collector analysed the overall antecedents and merits of both the candidates and found Hardeep Singh i.e. respondent No.5 as most suitable candidate and thus, appointed him as the Lambardar of the

Village vide his order dated 23.04.2018. Aggrieved by the same, petitioner challenged the same by way of filing the appeal before the learned Commissioner, Roopnagar Division Roopnagar. However, after hearing both the sides, learned Commissioner finding no merit in the appeal, dismissed the same vide order dated 31.01.2020 and thus, upheld the order passed by the Collector. Aggrieved by the same, the petitioner challenged it further by way of filing the revision under Section 16 of the Punjab Land Revenue Act, 1887 before the Financial Commissioner, who heard both the sides, re-appreciated the evidence on record and finding no merit in the revision filed, dismissed the same vide his order dated 22.09.2022 and thus upheld the order passed by the Collector and the learned Commissioner. Aggrieved by the same, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on demise of Lambardar Tejpal Singh of Village Morinda on 14.12.2016, post of Lambardar fell vacant and the petitioner also applied along with the other applicants applied for the post. He submits that from the comparison of the *inter se* merits, it is apparent that the petitioner was more meritorious. He submits that the petitioner was 29 years of age and did B.Tech in the year 2018. Besides this, he had 6 bigha of land. He submits that he had the experience of Lambardar being son of the deceased Lambardar. He submits that respondent No.5 was 45 years of age and only matric pass. In overall comparison of the merits, he being lower in the merit than the petitioner was illegally appointed as Lambardar by the Collector. He relies upon the Hon'ble Supreme Court judgment titled as **Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757.**

Thus, he was illegally appointed by the Collector. He submits that petitioner was the son of deceased Lambardar and thus, he had the

hereditary claim as well. He submits that learned Appellate and Revisional Court failed to appreciate the inter se merits of the petitioner and respondent No.5 and the law settled thus, all the three authorities have fallen in error in drawing the conclusion in appointing respondent No.5 as the Lambardar of the Village which is totally unsustainable in the eyes of law and thus, deserves to be set aside.

Heard. After hearing the learned counsel and perusing the record, it is apparent that on the demise of Lambardar Tejpal Singh of Village Morinda on 14.12.2016, process for appointment of new Lambardar was started and the applications were invited from the candidates. Finally, on analysis of the merits, respondent No.5 was found to be more suitable and as such he was appointed as a Lambardar by the Collector which order was upheld by the Commissioner and the Financial Commissioner as well in the appeal and revision filed by the petitioner. There is no gainsaying that on comparison of the *inter se* merits, the petitioner is younger than respondent No.5 and more qualified than him. However, the material facts which cannot be ignored are that the post for which the appointment is being considered is Lambardar. Petitioner is a younger person having qualification of B.Tech and thus, probability of his availability in the village for discharging the duties of the Lambardar are totally uncertain in the overall facts and circumstances of the case. Whereas, respondent No.5 the middle aged person who is matric pass and agriculturist by profession. Thus, the probability of his availability in the village for discharging the duties of Lambardar is more. Respondent No.5 is matric pass and thus, fulfills the requisite qualification required for discharging the duties of Lambardar. As per settled law, Collector is the prime authority for deciding the most suitable candidate for the post of Lambardar. Thus, in the overall facts and circumstances of the case, he had found respondent No.5 to be more capable

for the post of Lambardar keeping in view the overall interest of the villagers. As per settled principles of law, the view taken by learned Collector cannot be disturbed in a cavalier manner until and unless there is any perversity in the orders passed and thus, Appellate and Revisional Authorities finding no perversity in the same have upheld the decision of the Collector.

All the three subordinates authorities have taken consistent view and thus, order passed by the Collector is found to be suffering from no perversity. This Court in **Hakam Singh Vs. Financial Commissioner (Revenue), Punjab and others, 2016(4) RCR (Civil) 335** while dealing with the same question has held as under:-

3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.

The same view was taken by the Hon'ble Division Bench of this Court in **Ravinder Singh Vs. Financial Commissioner (Revenue), Punjab Chandigarh and others, 2012(68) RCR (Civil) 288.**

In **Sukhjinder Pal Singh Vs. State of Punjab and others, 2016(3)R.C.R.(Civil)725**, this Court while dealing with the same question has held as under:-

14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.

This Court finds that all the authorities have taken the concurrent decision in appointment of respondent No.5. Thus, this Court finds no perversity in the order passed by the Collector which had been upheld by the Appellate and Revisional Court and hence, finding no merit in the petition, is hereby dismissed.

12.09.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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