

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

CWP-13226-2023

Date of decision : 03.07.2023

Shaminder Singh

.....Petitioner

versus

The Financial Commissioner (Appeals) and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kamaldip Singh Sidhu, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

This writ petition has been filed by the petitioner praying for issuance of writ in the nature of certiorari quashing the impugned order dated 28.09.2018 passed by respondent No.3 vide which respondent No.4 has been appointed as Lambardar of Village Behbal Khurd, Tehsil Jaito, District Faridkot; impugned order dated 20.02.2019 passed by respondent No.2 vide which appeal of petitioner was rejected and impugned order dated 11.07.2022 passed by respondent No.1 dismissing the revision petition filed by petitioner.

Adumbrated facts of the case are that on account of death of Sh. Mukhtiar Singh previous Lambardar of Village Behbul Khurd, the approval regarding preparing the file was initiated vide letter bearing No.3954 dated 29.09.2017. The applications were invited from the willing candidates. The applications were received in the office of the District Collector from various candidates including the petitioner and respondent No.4. The *inter se* merits of all the candidates who applied were evaluated and on appreciation of the same, learned Collector found

respondent No.4 to be the most suitable candidate for the appointment and hence, he was appointed as Lambardar of the Village vide its order dated 28.09.2018.

The issue involved in the present petition is regarding the appointment of the Lambardar in Village Behbul Khurd. The Collector had appointed respondent No.4 namely, Kuldeep Singh son of Karnail Singh as Lambardar of the village after considering the merit of the applicants. Aggrieved by the same, petitioner who failed to succeed, challenged the appointment of respondent No.4 by way of filing the appeal before the learned Commissioner, Faridkot which was dismissed vide order dated 20.02.2019 and thereafter, he filed the revision before the Financial Commissioner (Appeals) Punjab which was also dismissed vide order dated 11.07.2022 and the order passed by the learned Collector was upheld by both the authorities i.e. the appellate and the revisional authorities by way of passing the impugned orders and hence, the petitioner is before this Court impugning the orders passed by the competent authorities.

Learned counsel for the petitioner has vehemently contended that learned Collector and thereafter, learned Appellate and Revisional Authority have miserably failed in appreciating the merits of the petitioner. He submits that the petitioner is resident of Village Behbul Khurd and has studied upto matric standard and he is nephew of deceased Lambardar Mukhtiar Singh and thus, has the experience and suitable candidate for the post of Lambardar. He has submitted that the candidature of the petitioner has been rejected on the ground that he has less holdings of the land than that of respondent No.4 which is no criteria

for the appointment to the post of Lambardar. He has further submitted that respondent No.4 had illegally encroached upon the Shamlat Land and thus, did not have an impeccable record for his consideration to the post of Lambardar over and above the petitioner. He submits that name of the petitioner was recommended by the villagers and respondent No.4 was not recommended by them. He has further submitted that the petitioner is matriculate whereas, respondent No.4 is 8th passed. He further submits that the petitioner is 27 years of age whereas, respondent No.4 is 32 years of age and thus, was younger. He has submitted that the authorities below have failed to appreciate the same and thus, have drawn a wrong conclusion in appointing respondent No.4 to the post of Lambardar which is totally against the facts and circumstances of the present case as well as law settled by this Court. He has submitted that the conclusion arrived at by the authorities below being unsustainable in the eyes of law deserves to be *set aside* and the petitioner be declared to be appointed as Lambardar of the village Behbal Khurd.

This Court has heard counsel for the petitioner and perused the record. It is apparent from the facts and circumstances of the case that the applications were invited for the post of Lambardar of Village Behbul Khurd on account of death of Sh. Mukhtiar Singh. The applications from various candidates were received including that of the petitioner and respondent No.4. The competent authorities verified the record of all the applicants and considered their *inter se* merits. On consideration of all the applications, petitioner was found to be having a matric qualification and possessing land measuring 04 acres. The respectable person of the village had recommended his name for the appointment of Lambardar. So far

respondent No.4 is concerned, he was found to be more meritorious by the Collector and respondent No.4 was also found to be of 32 years old and was holding the land measuring 50 kanals. He was found to have a good reputation in the Village. There was no criminal case pending against him. Resultantly, Kuldeep Singh was appointed.

Aggrieved by the same, petitioner filed the appeal before the learned Commissioner, Faridkot. After hearing counsel for both the sides, learned Commissioner declined the appeal filed by the petitioner and thus, affirmed the order dated 20.02.2019 passed by learned Collector. Aggrieved by the same petitioner assailed the same by way of filing the revision before the Finance Commissioner, Punjab. However, learned Finance Commissioner also finds no merits in the revision filed and thus, the revision was declined and the impugned orders of learned Collector and learned Commissioner were affirmed by him vide its order dated 11.07.2022.

It is a settled proposition of law that the choice of the Collector cannot be interfered in a cavalier manner and the same has to be given weightage unless and until there are some serious discrepancies in the appointment made by the learned Collector. 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.

xxxxxx

19 The Hon'ble Supreme Court in Mahavir Singh Vs. Khiala Ram and others, 2009(1)RCR(Civil)757 has held that age of a candidate was relevant factor in the cases of appointment to the post of Lambardar and there should be no interference with the choice made by the Collector in the matter of appointment of Lambardar even if two views are possible.

In the case in hand, it is apparent that the Collector had appreciated *inter se* merits of all candidates including both the petitioner and that of respondent No.4 and found respondent No.4 to be more suitable for appointing as Lambardar of the Village. Not only the Collector, the Appellate Authority and Revisional Authority also re-appreciated the decision of the learned Collector and found no infirmity in the order of Collector. Thus, in the facts and circumstances of this case, this Court does not find any perversity in the order passed by the Collector which is affirmed by both the Appellate and Revisional Authority. In view of the law settled by Hon'ble the Supreme Court in *Sukhjinder Pal Singh's case(supra)*, the order being not suffering from perversity, the writ petition being devoid of any merits is hereby dismissed.

03.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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