

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

CWP-13859-2019 (O&M)

Date of Decision: 01.12.2023

Sahib Singh

..... Petitioner

Versus

Financial Commissioner (Appeals) and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Navdeep Kalair, Advocate, for the petitioner.
Ms. Akshita Chauhan, Deputy Advocate General, Punjab.
Mr. R.S. Chauhan, Advocate and
Ms. Deepika Chauhan, Advocate, for respondent No.4.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the order dated 15.10.2018 (Annexure P-5) passed by the learned Financial Commissioner, Punjab in ROR No.707 of 2015, whereby, the case has been remanded back to learned District Collector, Hoshiarpur for deciding the same afresh.

Adumbrated facts of the case are that on account of death of Jaspal Singh, earlier Lambardar of the village Gaundhowal, Tehsil Garhshankar, District Hoshiarpur on 30.03.2008, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. *Mushtari Munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the same, five applications from the candidates including Sahib Singh (petitioner) and Devinder Singh (respondent No.4) were received. Character verifications of all the candidate were conducted and on the appreciation of the applications received, Sahib Singh (petitioner) was found to be 30 years of age and matriculate by qualification. Besides this, he owned 26 kanals 12 marlas of land. On the other hand, Devinder Singh (respondent No.4) was found to be

61 years of age and graduate by qualification and owned 32 kanlas of land in the village. Learned Collector on evaluation of the inter-se merits of all the candidates, finding petitioner to be more meritorious candidate appointed him as Lambardar of the village vide order dated 14.12.2011 (Annexure P-1). Aggrieved by the same, respondent No.4 filed an appeal before the Commissioner, Jalandhar Division, Jalandhar. Learned Divisional Commissioner after hearing both the sides finding no merit in the order passed by the Collector, dismissed the appeal vide order dated 22.07.2015 (Annexure P-3). Still aggrieved by the same, respondent No.4 filed revision before the learned Financial Commissioner, who heard both the sides and re-appreciated the record. Learned Financial Commissioner by observing that the petitioner was involved in criminal case, set aside the orders passed by the Collector and the Commissioner and hence, remanded the case to the District Collector for deciding the case afresh vide order dated 15.10.2008 (Annexure P-5). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

It has been vehemently contended by learned counsel for the petitioner that as is evident the petitioner and respondent No.4 filed their respective applications in pursuance to *munadi* conducted in the village. He submits that merits of both the candidates were assessed by the learned Collector and the petitioner was found to be 30 years of age; matriculate and an agriculturist by profession and has sufficient land in the village. On the other hand, respondent No.4 was found to be 61 years of age and graduate. It is submitted that the Collector on evaluation of the merits and demerits of the candidates in fray, found the petitioner to be most meritorious and thus, appointed him Lambardar of the village. He submits that though appeal was

filed by respondent No.4, but the same was dismissed. He submits that FIR No.77 dated 14.06.2017 under Sections 325, 323, 148, 149, 201 IPC was registered after six years of his appointment. He submits that the Collector is the main authority to appoint a Lambardar and his findings cannot be interfered with in a causal manner unless and until it suffers from patent illegality or perversity. He submits that the petitioner was younger in age than respondent No.4 and matriculate as well. He submits that the Collector is the authority who takes into consideration the overall antecedents of all the candidates and on evaluation of the same, the petitioner was found to be most suitable candidate. He submits that there was no perversity whatsoever in the order passed by the Collector, however, learned Financial Commissioner taking into consideration the FIR, has illegally set aside the orders passed by the Collector and the Commissioner and hence, has illegally remanded the case for decision afresh. He submits that the order of learned Financial Commissioner being unsustainable in the eyes of law deserves to be set aside.

Per contra, learned counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner. He has submitted that respondent No.4 though was 61 years of age, however, he was graduate by qualification and has more land than the petitioner. It is submitted that the petitioner has faced criminal prosecution in FIR No.77. He further submits that a Lambardar is a Headman of the village and hence, as per Rule 15 of the Punjab Land Revenue Rules, his reputation and influence in the village is of prime importance, but as the petitioner is involved in criminal case, hence, his appointment suffers from perversity which is not taken into consideration by the Commissioner while deciding the appeal filed by

respondent No.4. He submits that the learned Financial Commissioner has rightly appreciated the facts and circumstances of the case and settled proposition of law and hence, has rightly set aside both the perverse orders passed by the learned Collector and the Commissioner by remanding the case for decision afresh. He submits that the present petition being devoid of merits deserves to be dismissed.

After hearing learned counsel for the parties and perusing the record, it is apparent that on the comparison of the inter-se merits of both the candidates i.e. the petitioner and respondent No.4, the petitioner was found to be more meritorious candidate by the Collector and thus, he was appointed as Lambardar of the village. Appeal filed by respondent No.4 was dismissed by the Commissioner finding no merit in the same. However, learned Financial Commissioner has set aside both these orders and remanded the case for decision afresh. From the perusal of the order passed by the learned Financial Commissioner, it is apparent that FIR No.77 registered against the petitioner was major ground for setting aside his appointment as Lambardar. For the appreciation of the controversy involved, Rules 15 and 16 of the Punjab Land Revenue Rules are required to be considered, which read as under:-

“15. Matters to be considered in first appointments :- In all first appointment of headman, regard shall be had among other matters to-

- (a) his hereditary claims;
- (b) the property in the estate possessed by the candidate to secure the recovery of land revenue;
- (c) services rendered to the State by himself or by his family;
- (d) his personal influence, character, ability and freedom from indebtedness;
- (e) the strength and importance of the community from which

selection of a headman is to be made;

(f) services rendered by himself or by his family in the national movements to secure freedom of India.”

16. Dismissal of headmen.- (i) A headman shall be dismissed when-

(a) he is sentenced to imprisonment for one year or upwards or to any heavier sentence; or

(b) in an estate owned altogether or chiefly by Government he ceases to possess the interest which led to his appointment; or

(c) in any other estate, he ceases to be a landowner in the estate or sub-division of the estate in respect of which he holds office; or

(d) he has mortgaged his holding and has delivered possession of the holding to the mortgagee but in special cases the Collector may with the Commissioner's sanction retain him in his office under such circumstances, if he can furnish adequate security for the payment of the revenue he has to collect and for the due discharge of his duties; or

(e) his holding has been transferred under section 71 of the Land Revenue Act, or the assessment thereof has been annulled under section 73 of the same Act.

(ii) A headman may be dismissed when-

(a) criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of a headman; or

(b) he is seriously embarrassed by debt, or if his unencumbered holding is so small as to disqualify him in the Collector's opinion for the responsibility attached to the office of headman; or

(c) owing to age or physical or mental incapacity, or absence from the estate, he is unable to discharge his duties; or

(d) there is reason to believe that he has taken part in, or concealed illicit distillation, or the smuggling of contraband articles such as narcotics, gold, jewellery, foreign exchange, cocaine, opium or charas; or

- (e) he takes part in any unconstitutional agitation against the Government or fails to give his active support to the Government in the maintenance of law and order; or
- (f) he neglects to discharge his duties, or is otherwise shown to be incompetent; or
- (g) the estate or sub-division thereof, in respect of which he holds office, or his own holding, is attached, either for an arrears of land revenue or by order of any Court.”

It is evident that the petitioner was appointed as Lambardar of the village in the year 2011 by the Collector, whereas, the FIR which has been taken into consideration by the learned Financial Commissioner was registered six years thereafter i.e. on 14.06.2017. Thus, the contentions raised by the counsel for respondent No.4 regarding involvement of the petitioner in a criminal case is totally misconceived as at the time of his appointment by the Collector, the FIR was nowhere in the picture. Thus, the learned Financial Commissioner has fallen in error in holding the decision of the Collector to be erroneous and suffering from perversity.

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.”

As per law settled, the Collector is the main authority for appointment of the Lambardar. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray, but also personally interacts with them. Thus, the subjective satisfaction of the Collector cannot be

ignored in a cavalier manner.

Thus, this Court does not find any infirmity in the order passed by the Collector, which has been upheld by the Commissioner by dismissing the appeal filed by respondent No.4. Thus, the order passed by the learned Financial Commissioner is set aside and the present petition is allowed.

However, as the petitioner is involved in a criminal case after his appointment, the relevant provisions for the necessary action to be initiated against him is enumerated in Rule 16 of the Rules. Respondent No.4 would be at liberty to avail his remedy, in accordance with law, in case he has any surviving grievance.

01.12.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No