

**110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-13435-2023****Date of decision : 27.07.2023****Rahul Kumar****.....Petitioner****versus****Financial Commissioner, Punjab and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Ramneek Vasudeva, Advocate
for the petitioner.

Mr. Sherry K. Singla, Advocate
for Caveator/respondent.

*********RAJESH BHARDWAJ, J.**

Prayer in the present petition is for quashing of order dated 02.02.2023 communicated to the petitioner on 03.03.2023 passed by respondent No.1; order dated 07.06.2022 passed by respondent No.2 and order dated 26.10.2020 passed by respondent No.3 whereby respondent No.4 has been appointed as Lambardar of the Village Nangali, Tehsil Nangal, District Rupnagar.

It has been submitted by counsel for the petitioner that on account of death of the father of petitioner, Lambardar Yogesh Kumar, post of Lambardar in Village Nangali fell vacant and the proceedings were initiated for filling up the post. In view of the same, *mustri munadi* was got effected in the Village. In response to the same, total 09 applications were received for the appointment of Lambardar in the Village. The antecedents of all the nine candidates were verified.

However, learned Assistant Collector, 2nd Grade-cum-Tehsildar, Nangal

after hearing all the candidates illegally recommended the name of respondent No.4-Pardeep Kumar for the post of Lambardar of Village Nangali vide his report dated 06.01.2020. The said report was sent to the Sub Divisional Magistrate, Nangal and after hearing the candidates without taking into consideration the candidature of the petitioner, erroneously agreed with the report of Tehsildar, Nangal and recommended the name of respondent No.4 for the post of Lambardar to the Learned District Collector, Rupnagar vide his report dated 05.02.2020. He has submitted that without taking into consideration the candidature of the petitioner, respondent No.3 in total disregard to the provisions of Rule 15 & 17 of the Punjab Land Revenue Rules appointed respondent No.4 as Lambardar of the Village. He submits that the *inter se* merits of the petitioner and that of respondent No.4 were not at all compared and the ; learned Collector has simply on the basis of erroneous recommendations made by the Tehsildar and Sub Divisional Magistrate has appointed respondent No.4 as the Lambardar of the Village ignoring the merits of the petitioner. He has submitted that the petitioner was 27 years of age and 12th pass and is diploma holder in Mechanical Engineering as well. Besides this, he had 13 kanals, 6 marla of land in the Village. He submits that it is apposite to mention that petitioner is the son of deceased Lambardar and thus, has the experience of Lambardari as well. He has submitted that respondent No.4 on the other hand, was 50 years of age and thus, is elder than the petitioner. He has qualification of 12th Class and has only 2 kanals, 12 marlas of land which is much less than that of the petitioner. He has submitted that learned Collector ignored the merits

of the petitioner only on the ground that petitioner had travelled abroad. He submits that though the petitioner had travelled abroad, however, presently he is permanent resident of the Village and thus, his travelling abroad cannot be considered as his disqualification for the appointment to the post of Lambardar. He has submitted that the petitioner assailed the impugned order dated 26.10.2020 passed by the learned Collector, Rupnagar, appointing respondent No.4, by way of filing the appeal before the learned Commissioner however, learned Commissioner also failed to appreciate the submissions made by the petitioner and thus, illegally declined the appeal filed vide impugned order dated 07.06.2022. He has submitted that the petitioner further assailed the impugned order passed by the learned Commissioner by way of filing the appeal before the learned Financial Commissioner as well. However, learned Financial Commissioner has also failed to appreciate the facts and circumstances of the case and the law settled and thus, illegally declined the appeal vide order dated 02.02.2023. He has relied upon the judgment of this Court titled as *Pishora Singh Vs. State of Punjab and others, 2015(2) RCR (Civil) 344* wherein it has been held that when the comparative merits are equal then the preference can be given to the son of deceased Lambardar. He has also relied upon the Hon'ble Supreme Court Judgment titled as *Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757* and has submitted that the petitioner was younger in age and thus, he was more suitable than respondent No.4.

I have heard counsel for the petitioner and perused the record.

As is evident from the submissions made by counsel for the petitioner, the *mustri munadi* for filling up the post of Lambardar was conducted. In response to the same, nine applications were received. The police verification was conducted and thereafter the *inter se* merits of all the candidates were analyzed. Learned Assistant Collector, 2nd Grade-cum-Tehsildar, Nangal recommended the name of respondent No.4 to be appointed as Lambardar after comparing the *inter se* merits. As submitted, petitioner was 27 years of age and 12th pass and was diploma holder in Mechanical Engineering as well. Besides this, he had 13 kanals, 6 marla of land in the Village and he was the son of deceased Lambardar and thus, had the experience of Lambardar as well. On the other hand, respondent No.4 was 50 years of age and thus, was elder than the petitioner. He had qualification of 12th Class and had only 2 kanals, 12 marlas of land which is much less than that of the petitioner. Besides this there was no denial to the fact that the petitioner had travelled abroad. As per copy of passport, it was found that the petitioner returned to India on 27.08.2019 and earlier he returned to India on 28.07.2017. On analyzing the overall merits of all the candidates, learned Collector found respondent No.4 to be more suitable and thus, he was appointed as Lambardar. The Appellate Authority and the Revisional Authority duly appreciated the submissions made by counsel for the petitioner however, they agreed with the decision taken by learned Collector. Though travelling abroad is not a disqualification for the appointment as Lambardar but the petitioner has remained abroad for a considerable time. The availability of the Lambardar in the village is always essential and hence the decision of the

Collector was rational in the fitness of the circumstances.

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.

There is no doubt regarding the law cited by counsel for the petitioner however, in the facts and circumstances, this Court finds the same are distinguishable. This Court in its considered opinion finds no perversity in the decision arrived at by the Collector and thereafter, the Appellate Authority and Revisional Authority. Their order cannot be disturbed in the cavalier manner and thus, the petition being devoid of any merits, is hereby dismissed.

27.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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