

225

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

**CWP No.13463 of 2016 (O&M)
Date of Decision: 11.12.2023**

Karnail Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Puja Chopra, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

Mr. Ranjit Singh Saini, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for quashing the order dated 05.03.2013 passed by Sh. S. R. Ladhar, Commissioner, Jalandhar Division, Jalandhar (respondent No.2) (Annexure P-2) and order dated 20.05.2016 passed by Financial Commissioner, Punjab (respondent No.3) (Annexure P-3) being against the facts and circumstances of the case and also against the law on the point. Further prayer has been made for staying the operation of impugned orders Annexures P-2 and P-3 during the pendency of the present petition.

Adumbrated facts of the case are that on the resignation tendered by earlier Lambardar, namely, Avtar Singh from the post of Lambardar, the post fell vacant in the village. Thus, the process for appointment of new Lambardar was initiated in the village Panjaura. The mustri munadi was conducted and the applications were invited from the interested candidates. On receiving the applications from the candidates including the petitioner and respondents No.4 & 5, their character verification was conducted. Thereafter, the candidates, namely, Ranbir Singh i.e. respondent No.4, Gurdeep Singh i.e. respondent No.5, Baljinder Singh and Karnail Singh i.e. the petitioner along with their counsels appeared before the Collector. On the appreciation of their applications, respondent No.4, namely Ranbir Singh was found to be 46 years of age and graduate by qualification. Besides this, he owned 03 kanals of land. He was found to be the Secretary of Local Gurudwara of the village. Respondent No.5, namely, Gurdeep Singh was found to be 55 years of age and matriculate by qualification. Besides this, he owned 05 kanals of land. He was found to be retired from Air Force and thereafter was working as a Patwari. The petitioner, namely Karnail Singh was found to be 69 years of age and inter-mediate by qualification. Besides this, he owned 04 acres of land. He served for 40 years in Coal India Limited. On evaluation of the merits and demerits of all the candidates, the Collector found Karnail Singh i.e. the petitioner to be most meritorious candidate among all the candidates in fray and thus, appointed him as the Lambardar of the village vide his order dated 19.10.2011. Aggrieved by the same, respondents No.4

and 5 assailed the same by way of filing their independent appeals before the learned Commissioner, Jalandhar Division, Jalandhar. Both the appeals were heard by the Commissioner together and were decided by a common order dated 05.03.2013. The learned Commissioner accepted the appeal filed by respondent No.4 i.e. Ranbir Singh and thus, appointed him as the Lambardar of the village vide his order dated 05.03.2013. However, the appeal filed by respondent No.5, namely, Gurdeep Singh was dismissed being without any merit. Aggrieved by the same, the petitioner filed ROA No.23 of 2013 under Section 13 of the Punjab Land Revenue Act, 1887 before respondent No.1. On hearing both the sides, respondent No.1 finding no merit in the ROA filed by the petitioner, dismissed the same vide order dated 20.05.2016 and thus, affirmed the order passed by the learned Commissioner dated 05.03.2013. Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has submitted before this Court that on the initiation of process for appointing the new Lambardar, the petitioner and respondents No.4 & 5 along with other candidates duly applied for their appointment. She has submitted that though the petitioner was about 70 years of age at the time of applying for his appointment as the Lambardar but he was inter-mediate by qualification and had served for 40 years in Coal India Limited. Thus, finding him most meritorious candidates, he was duly appointed by the Collector vide his order dated 19.10.2011. She submits that respondents No.4 & 5 filed an appeal assailing the appointment of the petitioner. She submits that the learned

Commissioner has miserably failed in appreciating the evidence on record and the law settled and thus, illegally set aside the order passed by the Collector by appointing respondent No.4 as Lambardar of the village. She has submitted that the learned Financial Commissioner has equally failed to appreciate the law settled that the order passed by the Collector cannot be interfered unless the same suffers from the patent illegality. However, the learned Financial Commissioner ignoring the settled proposition of law, upheld the order passed by the Commissioner vide which the learned Commissioner had set aside the order passed by the Collector though the same suffers from no perversity. She submits that as on date, the petitioner is about 81 years of age. She has submitted that the impugned orders being against the law settled deserve to be set aside.

Learned counsel for respondent No.4 however has opposed the submissions made by learned counsel for the petitioner. He submits that from the bare perusal of the candidature of the petitioner and that of respondents No.4 & 5, it is apparent that respondent No.4 was 46 years of age at the time of appointment order passed by the Collector. Besides this, he was more qualified being graduate. He submits that respondent No.4 owned 3 kanals of land in the village. He submits that his name was recommended by Naib Tehsildar Mahilpur and by Sub Divisional Magistrate Garhshankar. He submits that respondent No.4 was the Secretary of Local Gurudwara and had worked in Sakhrta Samiti. He submits that as per law settled, a candidate being younger in age deserves to be preferred. Besides this, admittedly respondent No.4 being graduate

was more qualified than the petitioner but the learned Collector failed to appreciate the evidence on record and the law settled, and thus he illegally ignored the merits of respondent No.4. He submits that learned Commissioner finding the order passed by the Collector to be perverse rightly set aside the same. Hence, rectified the same by appointing respondent No.4 as the Lambardar of the village as respondent No.4 was the most meritorious candidate among all the candidates in fray. He submits that the view taken by the learned Commissioner was duly upheld by the learned Financial Commissioner while rejecting the ROA filed by the petitioner. He submits that the order of Collector was patently illegal and perverse and thus, has been rightly set aside by the learned Commissioner, which was duly upheld by the learned Financial Commissioner. He submits that the present petition being devoid of any merit deserves to be dismissed.

It has been brought to the notice of this Court that respondent No.5 has expired.

I have heard learned counsel for the parties and perused the material on record.

After hearing learned counsel for the parties and perusing the record, it is evident that the petitioner was 70 years of age at the time of initial consideration of his candidature. From the evidence on record, it is an admitted fact that respondent No.4 was not only younger in age than the petitioner being 46 years of age but also more qualified than the petitioner being graduate. As per the settled proposition of law held by the

Hon’ble Supreme Court in the judgment titled as ***Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757***, a candidate who is younger in age should be given the preference. The petitioner as on date is said to be about 80 years of age. There is no denial to the fact that the order of the Collector can be interfered only in case when it is found to have been suffering from patent illegality.

In the light of facts and circumstances of the case on record, the order passed by the Collector was patently illegal and thus, the Commissioner had rightly set aside the same, which was also upheld by the learned Financial Commissioner. Thus, this Court does not find any infirmity in the impugned orders passed by the Commissioner dated 05.03.2013 and the Financial Commissioner dated 20.05.2016. Hence, the present petition being devoid of any merit is hereby dismissed.

11.12.2023

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Whether speaking/reasoned

Whether reportable

(RAJESH BHARDWAJ)

JUDGE

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Yes/No

Yes/No