

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

CWP-11505-2017

Reserved on: 17.07.2023

Pronounced on: 28.07.2023

Pritam Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Imran Ahmad, Advocate, for the petitioner.

Mr. Arun William, Assistant Advocate General, Punjab.

Mr. Vaneet Thakur, Advocate

for Mr. Arun Takhi, Advocate, for respondent No.6.

Rajesh Bhardwaj, J.

Petitioner has approached this Court praying for quashing of impugned order dated 23.02.2017 (Annexure P-10) passed by respondent No.1, order dated 24.07.2015 (Annexure P-9) passed by respondent No.2 and order dated 28.11.2013 (Annexure P-6) passed by respondent No.3.

It has been contended by learned counsel for the petitioner that for the post of Nambardar in village Raipur, Hadbast No.413, Tehsil Balachaur, District Shaheed Bhagat Singh Nagar, proclamation was got made on 04.11.2011 and in pursuance to the same 7 applications were received. He further submits that on appreciation of the merits of the candidates applied for the post, the Assistant Collector IInd Grade, Balachaur recommended the name of the petitioner vide order dated 02.05.2012 (Annexure P-1) and sent the report to SDM, Balachaur. He has submitted that the SDM, Balachaur vide his order 01.04.2013 (Annexure P-2), recommended the name of the petitioner Pritam Singh to be the new Nambardar of the village Raipur. He has submitted that petitioner -Pritam Singh filed an application for cancellation of application of respondent No.6

Harmesh Lal on 01.04.2013 (Annexure P-4) and thereafter, the learned

Collector, analyzed all the applications received and it was found that only Pritam Singh and Harmesh Lal came present out of all the candidates. The analysis of the inter-se merits was carried out and on conclusion of the same, respondent No.6-Harmesh Lal was appointed as Nambardar of the Village vide order dated 28.11.2013 (Annexure P-6). He has submitted that aggrieved by the same, the petitioner filed the appeal before the learned Commissioner, however, the learned Appellate Court found no merit in the appeal and thus, the same was declined vide order dated 24.07.2015 (Annexure P-9). He has submitted that aggrieved by the order dated 24.07.2015, the petitioner filed revision under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner; both the sides were heard, however, the learned Financial Commissioner found no illegality in the orders passed by both the Courts below and thus dismissed the same vide order dated 23.02.2017 by upholding the appointment of respondent No.6 by the Collector and that of the Appellate Court. He has submitted that the view taken by the Collector and the subsequent authorities is totally unsustainable in the eyes of law. He has submitted that cut off date for application for the appointment of Nambardar was 04.11.2011 and respondent No.6 did not own any land on this date. He has submitted that it is only at a later stage i.e. on 07.11.2012, respondent No.6 acquired ownership of some piece of land, thus, ownership of land as relied upon by the Collector was totally illegal and there is a violation of Rule 14 of the Punjab Land Revenue Rules (as applicable to Punjab). It is submitted that the petitioner is 63 years of age; 10th class pass and retired as ASI from Punjab Police and he is son of deceased Nambardar and as such he bears a good moral character and besides this he owned 10 marlas of

land in the village. He has submitted that the SDM also recommended the name of the petitioner, but the learned Collector, Appellate and revisional authorities failed to appreciate the same and thus, came to a wrong conclusion in appointing respondent No.6 as Nambardar of the village.

Learned counsel for respondent No.6 has opposed the submissions made by learned counsel for the petitioner has submitted that respondent No.6 was 54 years of age; 9th class pass and has 6 kanals 2 marlas of land obtained through succession. He has submitted that respondent No.6 is younger in age than the petitioner. He has submitted that even otherwise the contentions of the petitioner regarding respondent No.6 not having land, has already been appreciated by the Courts below and it has been found that respondent No.6 owns land as well. He has further submitted that respondent No.6 is admittedly younger in age than the petitioner and permanently lives in the village and thus, always available for the welfare of the villagers. He has submitted that respondent No.6 was the choice of the Collector and as per the law settled, the choice of the Collector should not be disturbed. He has submitted that the Appellate and revisional authorities have upheld the decision of the Collector and thus, there is concurrent opinion in favour of respondent No.6.

Heard.

Admittedly, for the post of Nambardar, applications were invited and out of total 7 candidates only two candidates remained in fray i.e. the petitioner and respondent No.2. On analysis of the inter-se merits of the petitioner and respondent No.6, respondent No.6 was appointed for the post of Nambardar of the village by the Collector. Aggrieved by the same, the petitioner filed an appeal before the learned Commissioner, however, the same was declined vide order dated 24.07.2015. Again aggrieved by the

order dated 24.07.2015, the petitioner filed revision before the learned Financial Commissioner, however, the same was dismissed the same vide order dated 23.02.2017.

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 the law settled, there is no gainsaying that the choice of the Collector should not be disturbed. It is the Collector, who not only appreciate the record of the candidates but also personally interacts with the candidates. Besides this respondent No.6 is also younger in age.

Hon’ble Supreme Court in Mahavir Singh vs. Khiali Ram and others, 2009(1) RCR (Civil) 757 has held that for the appointment of Nambardar, age of the candidate is a relevant factor.

Holding of land is one of the parameters for the examination of the merits of the candidates, however, the same cannot be the sole ground for the rejection of the candidate, if the Collector finds the candidate otherwise meritorious and more suitable. Resultantly, this Court does not find any merit in the present petition and thus, the same is hereby dismissed being devoid of any merit.

28.07.2023
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No