

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

CWP-17857-2014

Date of decision: 16.11.2023

Bani Singh

... Petitioner

Versus

Financial Commissioner, Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Vineet Chaudhary, Advocate, for the petitioner.

Mr. Rajneesh Chadwal, Assistant Advocate General, Haryana.

Mr. H.R. Bhardwaj, Advocate, for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 11.08.2010 (Annexure P-5) passed by respondent No.3, order dated 07.12.2010 (Annexure P-6) passed by respondent No.2 and order dated 26.07.2012 (Annexure P-9) passed by respondent No.1.

Adumbrated facts of the case are that on the demise of Hukam Singh, earlier Lambardar of the village Kalawar Sub Tehsil Mustafabad, Tehsil Jagadhari, post of new General Lambardar fell vacant. Thus, the process for the appointment of new Lambardar was initiated and resultantly, *Mushtri Munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the same, three applications were received from the candidates, namely, Bani Singh (petitioner), Chander Shekhar (respondent No.4) and Parmod Singh. However, thereafter Parmod Singh withdrew his application and thus, only two candidates remained in the fray. Their character verifications were conducted. On the appreciation of their merits, Chander Shekhar (respondent No.4) was found to be 28 years old and 12th class pass by qualifications. Besides this he was found to be owner of 2 kanals of agricultural

land. So far as Bani Singh (petitioner) is concerned, he was found to be 36 years of age and 9th class pass and owner of 3 acres 5 kanals 13 marlas of land in the village. The learned Collector on the overall evaluation of the inter-se merits of the candidates in fray, found respondent No.4-Chander Shekhar to be the most suitable candidate and thus, appointed him as new General Lambardar of the village vide order dated 11.08.2010 (Annexure P-5). Aggrieved by the same, the petitioner filed appeal before the Commissioner, Ambala Division, Ambala. After hearing both the sides, learned Commissioner found no merit in the appeal filed and thus, dismissed the same vide order dated 07.12.2010 (Annexure P-6). Aggrieved by this order, the petitioner filed a revision petition before the learned Financial Commissioner, who also found no merit in the same and dismissed the revision petition vide order dated 26.07.2012 (Annexure P-9). Thus, the order passed by the Collector has been upheld by both the Appellate and Revisional authorities. Hence, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the learned Collector has illegally appointed respondent No.4 as Lambardar. He submits that the petitioner has more land than respondent No.4. He further submits that in fact respondent No.4 had no land in his name and thus, he could not have been appointed as Lambardar of the village. He submits that the petitioner owned 3 acres 5 kanals 13 marlas of land. He also submits that there is not much difference between the age and qualification of both the candidates. Hence, he submits that the impugned order passed by the Collector suffers from perversity, however, both the Appellate and Revisional authorities have equally failed to appreciate the same and thus, have drawn wrong conclusion of upholding the perverse order passed by the Collector. He submits that the

impugned order passed by the Collector and that by the Appellate and Revisional authorities being unsustainable in the eyes of law, deserve to be set aside by appointing the petitioner to be Lambardar of the village.

However, learned counsel for respondent No.4 has vehemently opposed the submissions made by the counsel for the petitioner. He has submitted that as is apparent from the record, respondent No.4 was 28 years old on the date of his appointment, whereas, the petitioner was 36 years of age. It is submitted that as per the law settled, a candidate younger in age should be given the preference. Besides this, he submits that respondent No.4 was more qualified than the petitioner as respondent No.4 was 10+2 pass. It is submitted that respondent No.4 has agricultural land as he has share in the ancestral property being co-parcener. He submits that thus it is factually incorrect that respondent No.4 did not own any land in the village. He has further submitted that as per Rule 14(2) of the Punjab Land Revenue Rules, owning of agricultural land is not even essential condition. He submits that respondent No.4 was duly appointed by the Collector vide order dated 11.08.2010, which was upheld by both the Appellate and Revisional authorities. He further submits that learned Collector is the prime authority to appoint the Lambardar of the village. Thus, he submits that the present petition being devoid of any merit, deserves to be dismissed.

Heard.

As is apparent from the record, on the initiation of the process for the appointment of new Lambardar, both the petitioner and respondent No.4 applied for the post. From the comparison of inter-se merits of both the candidates, respondent No.4 was found to be more meritorious being younger in age and having more qualification than the petitioner. Hon'ble Supreme

Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757 has held that for the appointment of Lambardar, age of the candidate is a relevant factor. Thus, respondent No.4 being younger in age was the preference of the Collector.

It is settled principle of law that the Collector is the prime authority in the appointment of the Lambardar and respondent No.4 was found to be more suitable for the appointment of the Lambardar. 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.

The precise submission made by counsel for the petitioner is regarding respondent No.4 not owning any land in the village, however, as submitted before this Court, respondent No.4 being co- parceners has right in the ancestral property. When respondent No.4 otherwise is more meritorious than the petitioner, then simply on the averment that respondent No.4 does not own any land in the village, would not dis-entitle him for his appointment as Lambardar of the village.

All the three subordinate authorities have taken consistent view and thus, order passed by the Collector is found to be suffering from no perversity. This Court in Hakam Singh vs. Financial Commissioner (Revenue), Punjab and others, 2016(4) RCR (Civil) 335 while dealing with the same question has held as under:-

“3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.”

In view of the facts and circumstances of the case and on the anvil of law settled, this Court does not find any perversity in the impugned orders and thus, the present petition is dismissed being devoid of any merit.

(RAJESH BHARDWAJ)
JUDGE

16.11.2023

sharmila

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No