

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

CWP-14219-2017

Date of Decision: 01.09.2023

Ram Kumar

..... Petitioner

Versus

Financial Commissioner Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Tejas Bansal, Advocate for
Mr. Sanjiv Kumar Aggarwal, Advocate, for the petitioner.
Mr. Rajneesh Chadwal, Assistant Advocate General, Haryana.
Mr. Vikram Singh, Advocate, for respondent No.4.

Rajesh Bhardwaj, J.

Petitioner has approached this Court for quashing of order dated 01.05.2017 (Annexure P-1) passed by respondent No.1 in ROR No.417 of 2015-16 titled as Ram Kumar vs. Jai Bhagwan Lambardar and consequently the order dated 03.12.2013 (Annexure P-4) passed by the Collector, Karnal and order dated 19.05.2016 passed by the Commissioner, Rohtak Division, Rohtak (Annexure P-6) and to declare the appointment of respondent No.4 as Lambardar as illegal, null & void, ab initio by accepting the application Annexure P-2.

Adumbrated facts of the case are that on the death of Babu Ram, earlier Lambardar of the village Amargarh, Tehsil Nilokheri, District Karnal on 16.12.1985, his son respondent No.4 Jai Bhagwan filed an application dated 21.07.1986 for appointing him on the post of Lambardar contending him to be 18 years of age. As a result, the Collector vide order dated 19.01.1987 appointed respondent No.4-Jai Bhagwan as Lambardar. Aggrieved by that, the petitioner, namely, Ram Kumar filed an application/complaint for removing him from the post of Lambardar on

05.11.2012, wherein, it was contended that respondent No.4 had illegally shown himself to be 18 years of age at the time of his appointment as Lambardar though he was less than 18 years. On 13.08.2013, respondent No.4 filed reply to the said application/complaint filed by the petitioner. On appreciation of the application/complaint and the reply filed by respondent No.4, the Collector, Karnal declined the same vide order dated 03.12.2013 (Annexure P-4). Aggrieved by the same, the petitioner filed an appeal before the Commissioner, Rohtak Division, Rohtak, who after hearing both the sides, dismissed the same vide impugned order dated 19.05.2016 (Annexure P-6). Again being aggrieved the petitioner filed a revision bearing No. ROR No.417 of 2015-16 before the learned Financial Commissioner, Haryana on 12.09.2016, however, the Financial Commissioner vide impugned order dated 01.05.2017 (Annexure P-1) dismissed the same. Hence, the petitioner has approached this Court by way of filing the present petition.

It has been vehemently contended by learned counsel for the petitioner that respondent No.4-Jai Bhagwan was illegally appointed as Lamardar of the village by the Collector vide order dated 21.07.1986 as he represented himself to be of 18 years of age, whereas, on the date of his appointment, he was less than 18 years of age. He submits that the petitioner filed an application/complaint dated 05.11.2012 challenging the appointment of respondent No.4 as Lambardar as he misrepresented himself to be 18 years of age. It is submitted that respondent No.4 filed his reply to the same, however, the learned Collector, Karnal without appreciating the evidence on record, declined the same vide impugned order dated 03.12.2013. He submits that the learned Collector declined the application

filed by the petitioner on the ground that the application has been filed by the petitioner after a period of about 25 years instead of filing any appeal against the same before the Commissioner in accordance with the statutory provisions, the petitioner chose to file the application. He submits that the petitioner filed an appeal before the Commissioner, however, the learned Commissioner also failed to appreciate the evidence on record and thus, illegally rejected the same vide impugned order dated 19.05.2016. He submits that in the letter dated 15.05.2013 (Annexure P-8) addressed to the Sub-Divisional Officer (C), Karnal by the Tehsildar, Nilokheri, it was mentioned that on enquiry it was found that respondent No.4 Jai Bhagwan was not of the age of 18 years at the time of his appointment, however, the office was unable to act on the complaint/application filed by the petitioner. It is submitted that it is apparent that respondent No.4 was less than 18 years of age and thus, his appointment as Lambardar of the Village is illegal and deserves to be set aside. He submits that however, all the authorities below failed to appreciate the same and thus, have drawn wrong conclusion in passing the impugned orders, which totally being perverse in nature, deserve to be set aside.

Per contra, learned counsel for respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that respondent No.4 was appointed as Lambardar of the village on 19.01.1987. He has contended that the allegations regarding misrepresentation on the part of respondent No.4 regarding his age, are totally false and frivolous. He submits that respondent No.4 was appointed as Lambardar of the village on 19.01.1987 as per Rule 15 of the Punjab Land Revenue Act, 1887 and at that time, there was no minimum age prescribed

in the Rules. However, the Rules were amended on 23.07.2008, according to which minimum age for filing application for being appointed to the post of Lambardar was made as 21 years. It is submitted that the Rules were amended after about 21 years of the appointment of respondent No.4. He submits that there being no illegality on the part of respondent No.4, his appointment suffers from no perversity. He has submitted that respondent No.4 is discharging duties of Lambardar with an impeccable record from the last more than 36 years. He has vehemently contended that the petitioner filed application/complaint for removal of respondent No.4 after about 25 years of his appointment, which in itself speaks that the petitioner approached the authorities with a malafide intention and the application filed was hopelessly time barred. It is submitted that the petitioner has no case on merits, thus, the present petition deserves to be dismissed with exemplary costs.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that respondent No.4 was appointed as Lambardar of the village by the Collector vide order dated 19.01.1987. The petitioner filed an application/complaint praying for removal of respondent No.4 on 05.11.2012 i.e. after about 25 years of his appointment, which was dismissed vide impugned order dated 03.12.2013. The appeal filed by petitioner against the same was also dismissed by the Commissioner vide impugned order dated 19.05.2016 and the revision filed thereafter, was also dismissed by the learned Financial Commissioner vide impugned order dated 01.05.2017, thus, upholding the order passed by the Collector and that of the Commissioner.

There is no gainsaying that the application/complaint filed by the petitioner for removal of respondent No.4 was after an unexplained delay of 25 years. It has been observed by the respondent-authorities that appointment of respondent No.4 had been made under Rule 15 of the Punjab Land Revenue Act, 1987 on 19.01.1987 and at that time, there was no minimum age prescribed for the appointment of Lambardar. However, the Rules were lateron amended on 23.07.2008, when the minimum age was prescribed to be 21 years. In the peculiar facts and circumstances of the case, it is apparent that the application was filed by the petitioner after a delay of about 25 years. There is nothing on record to show that respondent No.4 has ever concealed his age at the time of his appointment. Besides this since the date of his appointment, the petitioner has failed to bring on record any act, which could earn his disqualification from the post. The delay in filing the application in itself is sufficient to reject the same. Thus, there is no illegality or perversity in the orders passed by the authorities as the challenge to the same was made by the petitioner after an inordinate delay of 25 years and thus suffers from delay and latches. Finding no merits in the present petition, the same is hereby dismissed.

01.09.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No