

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

CWP-1462-2017

Date of decision : 17.07.2023

Davinder Singh

.....Petitioner

versus

**Financial Commissioner, Punjab, Punjab Civil Secretariat, Sector-9,
Chandigarh and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. K.S. Dadwal, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Mr. Sukhdev Singh, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the impugned order dated 18.12.2012 passed by respondent No.3, order dated 19.12.2014 passed by respondent No.2 and order dated 11.08.2016 passed by respondent No.1 vide which the claim of the petitioner for the post of Lambardar has been rejected.

Adumbrated facts of the case are that Joginder Singh Lambardar of Village Pulphkhta, Tehsil Dasuya, District Hoshiarpur was removed from the post on 12.12.2005. In order to fill up the vacancy, Naib Tehsildar Tanda initiated the proceedings. The proclamation was issued in the village for inviting the applications from the willing and eligible persons. In response to the same, Davinder Singh son of Sadhu Singh, Jarnail Singh son of Kartar Singh, Davinder Singh son of Bahadur Singh, Beant Singh son of Waryam Singh, Paramjit Singh son of Joginder Singh,

Gurmukh Singh son of Balkar Singh, Satwant Singh son of Khazan Singh, Sukhdev Singh son of Chanan Singh and Charanjit Singh son of Kartar Singh applied. Naib Tehsildar Tanda considered the claims of the candidates and recommended the name of Davinder Singh son of Sadhu Singh i.e. the petitioner and forwarded the case to SDM, Dasuya. On the consideration of *inter se* merits of all the candidates who applied for the said post, the Collector appointed Beant Singh i.e. respondent No.4 as the Lambardar of the Village vide his impugned order dated 18.12.2012. The petitioner assailed the same by way of filing the appeal before the learned Commissioner, Jalandhar Division. However, after hearing both the sides, learned Commissioner, Jalandhar rejected the same vide his order dated 19.12.2014. Aggrieved by the same, the petitioner again challenged the same by way of filing revision petition before learned Financial Commissioner, Chandigarh but he again failed to convince the learned Financial Commissioner and hence, the revision filed by him was dismissed vide order dated 11.08.2016 and thus, the appointment of respondent No.4 made by learned Collector was upheld upto the Court of learned Financial Commissioner, Punjab. Aggrieved by this *quasi judicial* order, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that the impugned orders passed by the *quasi judicial* authorities are totally beyond the facts and circumstances of the case and the law settled. He submits that the petitioner duly applied in response to the publication made for filling up the vacancy for the post of Lambardar. He has submitted that out of nine applicants, petitioner was the most meritorious candidate and thus, being suitable should have been appointed by the respondent-

authorities. He has submitted that the petitioner was 39 years of age and was matric pass and was a big landlord. Besides this, he had neat and clean character having not been involved in any criminal case. He has submitted that the plea made before the Collector and the subsequent authorities that the petitioner was matriculate and had only 8 acres of land is totally factually incorrect whereas the petitioner was matric pass and had more land than 8 acres of land as submitted before the authorities below. He has submitted that the candidature of the petitioner has been rejected merely on the ground that there was an FIR against the petitioner which is totally a false allegation and thus, he has submitted that the main ground of rejection of the petitioner is the allegation pertaining to registration of the FIR which was never registered against the petitioner. He has further submitted that the petitioner was younger in age than respondent No.4 and thus, as per the law settled, the petitioner being younger in age was more meritorious than respondent No.4. He relies upon the judgment titled as *Mahavir Singh Vs. Khiali Ram and others, 2009(1) RCR (Civil) 757;* *Nirmala Devi Vs. State of Punjab and others, 2017(2) RCR(Civil)19;* *Manabhar Hussain Vs. Financial Commissioner, Department of Revenue, Haryana and others, 2013(3) RCR(Civil)266;* *Satpal Vs. State of Punjab and others, 2013(3) RCR(Civil) 251 and Gurnam Singh Vs. Tarlochan Singh, 2002(3) RCR(Civil) 601* and thus, submitted that age of the candidate was the relevant factor and hence, the view taken by the authorities below in appointing the respondent No.4 is totally unsustainable in the eyes of law and thus, deserves to be *set aside* by appointing the petitioner as Lambardar of the Village.

Learned counsel for respondent No.4 has vehemently opposed

the submissions made by counsel for the petitioner. He has submitted that

respondent No.4 was 65 years of age and he had qualification of BSc., B.Ed and he was appointed by the Collector and thus, as per the law settled, choice of the Collector cannot be changed in a casual manner. He has submitted that the petitioner filed the appeal as well as the revision which were dismissed and thus, the order passed by the Collector has been upheld by the higher Authorities. He submits that the petition having no merit deserves to be dismissed.

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

As per facts of the case, the process of appointment for the post of Lambardar was initiated on account of removal of Lambardar from the post on 12.12.2005 and nine applications were received from the willing candidates. The Office of the Collector duly appreciated *inter se* merits of the candidates whose applications were received. On appreciation of the merits of the petitioner, he was found to be 39 years of age and matriculate. He owned 8 acres of land and on scrutiny, it was found that a criminal case was registered against him but as per reply given by the petitioner, both the parties had compromised the matter. On the other hand, on appreciation of the merits of respondent No.4, he was found to be having two degrees i.e. Graduation in Science and second Bachelor in Education. Thus, he was found to have owned more land than all other candidates. On finding respondent No.4 Beant Singh more educated and owner of more land than others, he had been appointed as Lambardar of the Village. He was 65 years of age having qualification of BSc. B.Ed and a retired Science Teacher. He was found to be holder of rural merit scholarship and was a pensioner. There is no doubt that respondent No.4 was elder in age than the petitioner. However, Rule 15 of the Punjab Land

Revenue Act read as under:-

15. **Matters to be considered in first appointments-** In all first appointments of headman, regard shall be had among other matters to--

- (a) his hereditary claims;*
- (b) the property in the estate possessed by the candidate to secure the recovery of land revenue;*
- (c) services rendered to the State by himself or by his family;*
- (d) his personal influence, character, ability and freedom from indebtedness;*
- (e) the strength and importance of the community from which selection of a headman is to be made;*
- (f) services rendered by himself or by his family in the national movements to secure freedom of India.*

Thus, it is not only the age of the candidate which is to be taken into consideration regarding appointment as the Lambardar, the Collector has to appreciate overall antecedents and the character of all the candidates in the race. Undoubtedly, respondent No.4 was the most qualified among all the candidates and had a neat and clean character, he had no allegation regarding his complicity in any criminal case. He retired as a Science Teacher and was a pensioner. The petitioner no doubt was younger in age, however, in other parameters, he was found to be less meritorious. From the record available, the arguments raised by counsel for the petitioner that petitioner has been rejected only on the ground of allegations pertaining to his involvement in a criminal case is totally misfounded. In the overall merits of both the candidates i.e. petitioner and respondent No.4, respondent No.4 was found to be more meritorious and suitable by the Collector.

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.

In the case in hand, it is apparent that the Collector had appreciated *inter se* merits of all candidates including both the petitioner and that of respondent No.4 and found respondent No.4 to be more suitable for appointing as Lambardar of the Village. Not only the Collector, the Appellate Authority and Revisional Authority also re-appreciated the decision of the learned Collector and found no infirmity in the same. Thus, in the facts and circumstances of this case, this Court does not find any perversity in the order passed by the Collector which is affirmed by both the Appellate and Revisional Authority. In view of the law settled by Hon'ble the Supreme Court in Sukhjinder Pal Singh's case(supra), the order being not suffering from any perversity is upheld and the writ petition being devoid of any merits is hereby dismissed.

17.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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