

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

CWP-19098-2016

Date of Decision: 10.08.2023

Karan Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Avtar Singh Bhatti, Advocate, for the petitioner.
Mr. Arun William, Assistant Advocate General, Punjab.
Mr.N.P.S. Mann, Advocate, for respondent No.4.

Rajesh Bhardwaj, J.

Petitioner has approached this Court praying for quashing of order dated 22.01.2016 (Annexure P-3) passed by the Financial Commissioner vide which order dated 20.01.2014 passed by the Commissioner, Jalandhar and order dated 04.10.2011 passed by the Collector appointing the petitioner as Lambadar of village Mastiwal, Tehsil Dasuya, District Hoshiarpur, have been set aside.

It has been contended by learned counsel for the petitioner that on the demise of earlier Lambardar Tara Singh of village Mastiwal, Naib Tehsildar, Garhdiwala initiated the proceedings to fill up the vacancy for the post of Lambardar. Proclamation was made and the applications were invited from the eligible candidates and in pursuance to the same various candidates applied for the said post. He submits that candidates Onkar Singh, Om Singh, Budh Singh, Karan Singh (petitioner), Om Parkash, Kuldeep Singh and Nirpal Singh appeared with their counsel before the Collector and their inter-se merits were appreciated by him. He submits that on the appreciation of the merits of the petitioner, he was found to be of 60 years of age and matriculate. Besides this, he owned 2 kanals 5 marlas of

land and 3 acres 5 kanals land was in the name of his son and he was found to be an ex-serviceman, who served for 28 years in the Army and retired as Captain from Army getting a pension of Rs.22,000/- per month. He submits that on the other hand, respondent No.4-Om Parkash was found to be of 57 years old; matriculate by qualification; owned 2 acres of land in the village; ex-serviceman, who also served for 28 years in Army and honoured with President Award and five other medals as well. On the evaluation of their inter-se merits, the Collector found the petitioner as a more suitable candidate for the post and thus, he was appointed as Lambardar of the village vide order date 04.10.2011 (Annexure P-1). He submits that aggrieved by the same, respondent No.4 Om Parkash filed an appeal before the Commissioner, Jalandhar, wherein notices were issued to the other side and after hearing both the sides, learned Commissioner dismissed the appeal filed by respondent No.4 vide order dated 20.01.2014 (Annexure P-2). It is submitted that aggrieved by the same, respondent No.4 filed a revision under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who after hearing both the sides accepted the revision and set aside the well reasoned orders passed by the Collector and the Commissioner and thus, remanded the case to the Collector vide impugned order dated 22.01.2016 (Annexure P-3). It has been contended by learned counsel for the petitioner that the petitioner was found to be more suitable candidate among all the candidates in fray and thus, was appointed by the Collector as Lambardar. He has submitted that learned Financial Commissioner has failed to appreciate the facts and circumstances of the case and thus, illegally set aside the orders of both the Collector and that of the Commissioner. He submits that though the petitioner was facing

prosecution in a criminal complaint, however, he was acquitted by the trial Court on 27.07.2015 and thus, appointment of the petitioner as Lambardar suffers from no illegality. He submits that as per the law settled in **Sukhjinder Pal Singh Vs. State of Punjab and others**, 2016(3) R.C.R. (Civil) 725, the choice of the Collector cannot be interfered with in a cavalier manner and the same has to be given due weightage, however, the learned Financial Commissioner did not appreciate the same. He submits that the impugned order being against the law settled deserves to be set aside.

Learned counsel for respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner and has submitted that on the comparison of inter-se merits of both the petitioner and respondent No.4, it is apparent that both were ex-servicemen. He submits that respondent No.4 was younger in age than the petitioner, besides this, he had not only served in Army for 28 years but was awarded with President Award and five other medals during his service. He submits that at the time of appointment, the petitioner was facing prosecution in a criminal complaint under Sections 464, 465, 467, 471, 120-B IPC for forging the documents. He submits that the petitioner concealed the same at the time of his appointment and thus, learned Financial Commissioner had rightly remanded the case for decision afresh. He submits that respondent No.4 has an unblemished record as he has never faced any criminal prosecution and thus, he was more meritorious. He submits that the Collector has failed to appreciate the same and thus, drawn a wrong conclusion in appointing the petitioner as Lambardar.

Heard.

As evident from the facts and circumstances of the case, on the demise of Tara Singh, earlier Lambardar of the village, process for appointment of Lambardar was initiated. In pursuance to the same, various candidates applied for the post. Scrutiny of the applications was done and character verification of the candidates was also obtained. On comparison of their inter-se merits, the petitioner was appointed as Lambardar of the village by the Collector vide order dated 04.10.2011. Appeal filed by respondent No.4 was dismissed by the Commissioner vide order dated 20.01.2014, whereas, learned Financial Commissioner vide order dated 22.01.2016 set aside the orders passed by the Collector and the Commissioner in revision filed by respondent No.4 and directed the Collector to decide the case afresh. From perusal of the record, it is evident that both the petitioner and respondent No.4 were ex-servicemen, who have served in Army for 28 years. On comparison of their age both are almost of same age group. However, it came to the light that the petitioner was facing prosecution in criminal complaint at the time of his appointment though he was acquitted in the same in the year 2015 i.e. much after his appointment by the Collector in the year 2011. From perusal of the record, it is evident that at the time of scrutiny of antecedents of the candidates, fact regarding facing of the prosecution by the petitioner in the criminal complaint was not discussed by the Collector. Though he was acquitted on 27.07.2015, but the same was required to be taken into consideration at the time of his appointment by the Collector. Thus, this Court finds the view taken by the learned Financial Commissioner to be more rational, wherein, he has directed the Collector to decide the case afresh. The factum regarding the pendency of the criminal case was not discussed by the Collector thus, the

same be also discussed by passing fresh order as directed by the learned Financial Commissioner. Though as per the law settled, the choice of the Collector cannot be interfered with in normal course and the same has to be given due weightage unless the same suffers from patent illegality. In the case in hand, pendency of the criminal complaint against the petitioner was not discussed and thus, in the considered opinion of this Court, the view taken by the learned Financial Commissioner suffers from no illegality and this Court is in agreement with the same. Resultantly, the present petition is dismissed being devoid of any merit.

However, the learned Collector would hear both the sides and decide the case afresh expeditiously, preferably within a period of two months from the date of the receipt of certified copy of this order.

10.08.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No