

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

CWP-1410-2018

Date of Decision: 10.08.2023

Bikramjit Singh

..... Petitioner

Versus

Financial Commissioner (Revenue) and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Chetan Bansal, Advocate, for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

Ms. Amandeep Soni, Advocate, for respondent No.4.

Rajesh Bhardwaj, J.

Petitioner has approached this Court for quashing of order dated 06.12.2017 (Annexure P-5) passed by the learned Financial Commissioner (Revenue), Punjab, vide which well reasoned order dated 11.04.2016 (Annexure P-3) passed by the learned Commissioner, Jalandhar Division, Jalandhar as well as order dated 23.05.2013 (Annexure P-1) passed by learned District Collector-cum-Deputy Commissioner, Amritsar, have been set aside.

It has been contended by learned counsel for the petitioner that on demise of Inder Singh, earlier Lambardar of village Sachandar (Patti Sidhu), Tehsil and District Amritsar-2, process for appointment of Lambardar was initiated and Mushtri Munadi was effected through Tehsildar in the village after which, Balkar Singh son of Inder Singh, Sartaj Singh son of Inder Singh and Bikramjit Singh son of Balkar Singh filed their applications. He submits that according to the report of Naib Tehsildar, Amritsar-2, Balkar Singh, Sartaj Singh and Bikramjit Singh came present for Lambardari, however, Balkar Singh presented his application that he forgoes his claim for the Lambardari in favour of Bikramjit Singh. Sartaj

Singh came present but neither he presented any application for Lambardari nor he ever came present again, thus the only candidate remained in fray was Birkramjit Singh i.e. the petitioner. He has submitted that the Collector appreciated the candidature of Bikramjit Singh and his character verification was done and it was found that deceased Lambardar was the grand father of Bikramjit Singh who had experience of working as Lambardar and had studied upto 10th class. Besides this, he owned 20 kanals and 15 marlas of land in the village and thus, on the evaluation of his overall antecedents, he was appointed as Lambardar by the Collector vide order dated 23.05.2013. He has submitted that respondent No.4 filed an appeal against the same before the learned Commissioner, however, after hearing both the sides, the learned Commissioner found no illegality in the appointment made by the Collector vide order dated 23.05.2013 and thus, the appeal filed by respondent No.4 was dismissed vide order dated 11.04.2016. He has submitted that aggrieved by the same, respondent No.4 filed revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who on hearing both the sides accepted the same vide order dated 06.12.2017 by remanding the case to the District Collector to carry out a fresh proclamation in the village and select the best candidate thereafter. Learned counsel for the petitioner has submitted that the petitioner belongs to a family where his forefathers remained Lambardars of the village. He submits that on the demise of his grand father, process for the appointment of the Lambardar in the village was initiated and in pursuance to the same, the petitioner also applied for the said post. He submits that in all three applications were received and finally the petitioner only remained in the fray, whose character verification

was done and his overall antecedents were appreciated by the Collector and finding him the suitable for the post, he was appointed as Lambardar of the village. He submits that respondent No.4-Kabul Singh filed an appeal and the same was dismissed by the learned Commissioner. He submits that thereafter, the learned Financial Commissioner has fallen in error in not appreciating the settled proposition of law. He submits that the choice of the Collector cannot be interfered with in a cavalier manner and as is evident the petitioner was duly appointed by the Collector finding him the most suitable. He submits that the learned Financial Commissioner has fallen in error in accepting the revision filed by respondent No.4 and remanding the case to the Collector. He submits that the learned Financial Commissioner has given undue weightage to the report of the Commissioner stating that the petitioner was not resident of the village. He submits that the same was without any basis as the petitioner is the permanent resident of the village and thus, the view taken by the learned Financial Commissioner is totally unsustainable in the eyes of law and deserves to be set aside.

Learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner and has submitted that no cause of action is accrued to the petitioner for approaching this Court by way of filing the present petition. She has submitted that the petitioner in a clandestine manner has manipulated the process of Munadi in connivance with the lower revenue staff and thus, the same was not conducted as per the statutory provisions. She has submitted that it is because of the same, the petitioner was the only candidate in the fray for the post of Lambardar, but the Collector and the Commissioner failed to appreciate the same and thus, passed the impugned order, which are

unsustainable in the eyes of law. She has submitted that respondent No.4 could not appear before the District Collector as no proper Munadi/proclamation was ever conducted in the village by the lower revenue officials only in order to appoint the petitioner in a clandestine manner. She submits that the rest of the villagers were intentionally restrained from participating in the process of appointment of Lambardar. He submits that the petitioner is nor a resident of the village Sachandar but resident of Kothi No.102, Block C, Guru Amardas Avenue, Amritsar. He submits that the impugned order suffers from no illegality as the learned Financial Commissioner has rightly set aside the orders passed by the learned Collector and that of Commissioner and to meet the ends of justice has rightly remanded the case to carry out fresh Munadi to appoint the Lambardar of the village.

Heard.

After hearing learned counsel for the parties and the perusing the record, it is evident that on the demise of the earlier Lambardar, process for appointment of Lambardar was commenced in the village. In pursuance to the same, three applications were received, however, finally the petitioner remained in the fray, who was appointed by the Collector vide order dated 23.05.2013. Appeal filed by respondent No.4 was also dismissed by the Commissioner vide order dated 11.04.2016, however, in the revision filed by respondent No.4, the same was accepted and vide impugned order dated 06.12.2017. From the facts and circumstances of the case, it is evident that the petitioner is the grand son of the deceased Lambardar. The precise argument raised by learned counsel for respondent No.4 is that there was no proper Munadi/proclamation conducted in the village for initiating the

process for appointment of new Lambardar. There were only three applications received and the rest candidates also did not remain in fray and thus, the petitioner was the only available candidate. The circumstances themselves show that there was no contest for the appointment of Lambardar, which would rather substantiate the arguments raised by learned counsel for respondent No.4 that Munadi was not conducted in a proper manner as the Collector had no choice for the appointment of Lambardar as the petitioner only remained in the fray. Thus, in the considered opinion of this Court, the view taken by the learned Financial Commissioner in accepting the revision filed by respondent No.4 and remanding the case for appointment of Lambardar by making fresh Munadi is well reasoned order passed to meet the ends of justice by providing fair opportunity to all the interested candidates of the village. This Court does not find any perversity in the opinion arrived at by the learned Financial Commissioner, thus the present petition being devoid of any merit is hereby dismissed.

However, keeping in view the overall facts and circumstances of the case, the Collector is directed to initiate the proceedings for appointment of Lambardar and conclude the same within a period of three months from the date of receipt of certified copy of this order.

10.08.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No