

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

CWP-17322-2020

Date of Decision: 21.11.2023

Harmohinder Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Amandeep Soni, Advocate, for the petitioner.
 Mr. Arun William, Assistant Advocate General, Punjab.
 Mr. Rahul Garg, Advocate, for respondent No.5.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the order dated 17.02.2020 (Annexure P-3) passed by the Financial Commissioner (Appeals), Punjab, whereby the appeal filed by respondent No.5 was wrongly and illegally accepted against the order dated 15.01.2018 (Annexure P-2) passed by learned Commissioner Jalandhar Division, Jalandhar, whereby the appeal filed by the present petitioner was rightly and legally accepted against the order dated 25.11.2014 (Annexure P-1) passed by the learned Collector, Hoshiarpur, who has wrongly and illegally appointed respondent No.5 as Lambardar of the village.

Adumbrated facts of the case are that on account of death of Mangal Singh, earlier Lambardar of the village Bhatolian, Tehsil & District Hoshiarpur on 21.02.2013, process for the appointment of new Lambardar was initiated. *Mushtari Munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the same, nine applications including the petitioner (Harmohinder Singh) and respondent No.5 (Gurjiv Singh) were received. Character verifications of all the candidate were conducted and on the appreciation of the applications

received, Harmohinder Singh (petitioner) was found to be 61 years of age, MA pass and pensioner being retired as Assistant Research Officer. Besides this, he was found to be having 1 acre 4 kanals of land. On the other hand, Gurjiv Singh (respondent No.5) was found to be 33 years of age and BA pass. Besides this his father owned 3 acres of land. On the comparison of the merits and de-merits of both these candidates, the learned Collector found respondent No.5-Gurjiv Singh as most suitable candidate and thus, appointed him as Lambardar of the village vide order dated 25.11.2014 (Annexure P-1). Aggrieved by the same, two different appeals were filed before the learned Commissioner. One by the petitioner and another by Sukhwinder Singh. Both the appeals were heard together and decided by the Commissioner vide common order dated 15.01.2018 (Annexure P-2). Learned Commissioner after hearing learned counsel for both the sides, set aside the impugned order dated 25.11.2014 passed by the Collector and appointed the petitioner as Lambardar of the village and directed the Collector to issue sanad lambardari to the petitioner. Aggrieved by the same, respondent No.5 filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner. Learned Financial Commissioner heard both the sides and re-appreciated the evidence on record and accepted the appeal filed by respondent No.5 and thus, set aside the order passed by the learned Commissioner vide impugned order dated 17.02.2020 (Annexure P-3). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

It has been vehemently contended by learned counsel for the petitioner that on the comparison of the inter-se merits of the both the candidates, it is apparent that the petitioner being post graduate is more

qualified than respondent No.5. She submits that the petitioner is retired as Assistant Research Officer and he receives pension. She submits that father of the petitioner participated in World War II. It is submitted that after having filed the applications by all the candidates, name of the petitioner was recommended by the Tehsildar, Hoshiarpur to SDM, who agreed with the same and further recommended the name of the petitioner to the Collector. She submits that however, learned Collector has drawn a wrong conclusion in rejecting the candidature of the petitioner. She submits that respondent No.5 is running a dairy farm in the village and he also runs a grocery shop and thus, he cannot be said to be available for the service of the villagers. She submits that the petitioner was more suitable candidate for the appointment of Lambardar, however, learned Collector totally failed to appreciate the inter-se merits of the petitioner and thus, order passed by the Collector is perverse. She has submitted that in the appeal filed by the petitioner, learned Commissioner found merits in the appeal and thus, found the order of the Collector suffering from perversity. She submits that the learned Commissioner set aside the order passed by the Collector and thus, rightly appointed the petitioner as Lambardar of the village. She has submitted that learned Financial Commissioner again committed grave illegality in setting aside the well reasoned order passed by the Commissioner and thus, illegally restored the order passed by the Collector. She submits that it is well settled law that if the order passed by the Collector is found to be suffering from perversity, the same can be interfered with by the Appellate authority or Revisional authority, however, the learned Financial Commissioner has failed to appreciate the same. She further submits that in the facts and circumstances of the case, the impugned

order is unsustainable in the eyes of law and deserves to be set aside.

Per contra, learned counsel for respondent No.5 has opposed the submissions made by learned counsel for the petitioner. He has submitted that it is an admitted fact that respondent No.5 is much younger in age than the petitioner and he is equally qualified being a graduate. He submits that name of respondent No.5 was recommended by the villagers. It is submitted that merely because respondent No.5 is running a dairy farm and shop in the village, is not sufficient to conclude that respondent No.5 would not be available in the village for the service of the villagers. He has submitted that as per the law settled the order passed by the Collector cannot be interfered with in a cavalier manner unless it suffers from any perversity. As the order passed by the Collector suffers from no perversity, hence, the learned Financial Commissioner has rightly set aside the illegal order passed by the Commissioner and rightly upheld the well reasoned order passed by the Collector. He submits that in these circumstances, the present petition being devoid of any merit deserves to be dismissed.

Heard.

There is no gainsaying to say that on the comparison of inter-se merits of both the candidates, respondent No.5 was found younger being 33 years of age and BA by qualification. Besides this, respondent No.5 has very good reputation in the village. The argument raised by counsel for the petitioner that respondent No.5 would not be available in the village as he is running a dairy farm and shop, is without any merit. 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.

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.

Thus, this Court finds no perversity in the order passed by the Collector, which is duly upheld by the learned Financial Commissioner. Hence, the present petition being devoid of any merit is hereby dismissed.

21.11.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No