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

CWP-14576-2023

Date of decision : 13.07.2023

Gurmail Singh**.....Petitioner**

versus

Financial Commissioner, Punjab and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Naveen Batra, Advocate
for the petitioner.

*********RAJESH BHARDWAJ, J.**

Petitioner has approached this Court by way of present petition praying for issuance of directions for setting aside the orders dated 12.09.2022 passed by learned Financial Commissioner, Punjab; order dated 16.01.2019 passed by learned Commissioner, Jalandhar Division and further order dated 11.07.2017 passed by learned Deputy Commissioner-cum-District Collector vide which respondent No.4 has been appointed as Lambardar of the Village.

As per facts of the case, Sh.Tarsem Singh Lambardar of Village Bholana, Tehsil and District Hoshiarpur died on 08.09.2014. To fill up the vacancy, the Naib Tehsildar, Hoshiarpur had conducted a call in Village Bholana for inviting the applications for the said post. Ten applications were received and the character of the candidates were verified from the police department. Five candidates namely, Harpreet Singh, Jagjeet Singh, Jagvir Singh, Jaswant Singh and Harbhajan Singh

did not come present and thus, they were proceeded *ex parte*. Remaining candidates were heard. The candidate namely, Balwinder Singh, respondent No.4 was proposed and the matter was referred to Tehsil Hoshiarpur. Sub Divisional Magistrate, Hoshiarpur after recommending the name of Balwinder Singh sent the case to the office of Deputy Commissioner-cum-District Collector, Hoshiarpur. The candidature of all the candidates were examined and finally the learned Collector appointed Balwinder Singh son of Darshan Singh, respondent No.4 as Lambardar of Village Bholana vide order dated 11.07.2017. The petitioner assailed the said order by way of filing the appeal under Section 13 of the Punjab Land Revenue Act before the Commissioner, Jalandhar but the same was rejected by the Commissioner vide his order dated 16.01.2019. Aggrieved by the same, petitioner assailed the same by way of filing the revision petition before learned Financial Commissioner (Appeals), Punjab. However, the same was declined by the Financial Commissioner vide his order dated 12.09.2022 by upholding the order of the District Collector dated 11.07.2017 and order dated 16.01.2019 of the Commissioner, Jalandhar. Hence, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the authorities below have fallen in error in passing the impugned orders by ignoring the merits of the petitioner and thus, have drawn a wrong conclusion in appointing respondent No.4 as Lambardar of the village. He has submitted that the petitioner was younger in age than respondent No.4 and as per the settled law, he should have been given preference over respondent No.4.

Learned counsel has relied upon 2009(1)RCR(Civil)758 (S.C.) wherein it was held that age of the candidate is a relevant Factor. He has also relied upon the judgment titled as Major Singh Vs. Financial Commissioner, Cooperation, Punjab, Chandigarh and others, 2009(3) RCR(Civil)816(P&H) wherein it was held that a young person can perform his duty better as compared to the person of advanced age.

Learned counsel for the petitioner has further submitted that as per Rule 15 of the Punjab Land Revenue Act, the candidates who has the personal influence and ability should be given preference for the appointment of Lambardar. He has submitted that petitioner was having 40 kanals of land, own tractor-trolley and he remained the sitting Sarpanch of the Village and Member of Block Samiti. Besides this, he was associated with the political party as well. Thus, he earned good reputation among the villagers but learned Collector and the other authorities failed to appreciate the same and thus, has violated the spirit of Rule 15 and the law settled. He has submitted that respondent No.4 was running a tent shop in village Sikri along with his brothers and besides, this he was working as a Security Guard and thus, he has no time for the service to the villagers but the respondent-authorities have failed to appreciate the same. He submits that the candidature of the petitioner has been rejected by the Collector simply because he was Sarpanch of the Village as well which is no reason for disqualification. He submits that the Authorities below have failed to appreciate the same and thus, drawn a wrong conclusion and the impugned order deserves to be *set aside*.

This Court has heard counsel for the petitioner and perused the record. It is apparent that the post of Lambardar fell vacant on account

of death of Sh.Tarsem Singh. The applications were invited from the eligible villagers. On receipt of the applications, the candidature of the eligible candidates were verified. The petitioner was found to be 50 years of age who was under matric by qualification. He has 40 kanals of land and thus, is agriculturist by profession. On the other hand respondent No.4 was found to be 51 years of age who was 8th class passed. He was an ex-serviceman and on verification, he was found to have received an award in the Battle of Kargil. He permanently resided in the village and actively participated in the development activities.

On comparing the *inter se* merits, the learned Collector found respondent No.4 to be more suitable for the post of Lambardar. Needless to say that as per the settled law, the choice of the Collector cannot be ignored in a cavalier manner. It is the subjective satisfaction of the Collector which has to be given respect. In the present case, appeal was filed by the petitioner. The same was rejected and thereafter in the revision filed before the Financial Commissioner no infirmity was found in the choice made by the Collector which was affirmed by the Financial Commissioner and thus, the revision was dismissed.

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.

Thus, in the facts and circumstances of this case, this Court does not find any perversity in the opinion arrived at by the Collector and the higher authorities thereafter. Thus, the impugned orders found to be suffering from no infirmity. Resultantly, this petition, being devoid of any merits is hereby dismissed.

13.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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