

**225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-16313-2018****Date of decision: 10.10.2023**

Sukhdev Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Gaurav Kalsi, Advocate for
Mr.H.S. Batth, Advocate, for the petitioner.

Mr. Arun William, Assistant Advocate General, Punjab.

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

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 25.06.2013 (Annexure P-2) passed by respondent No.3, order dated 23.05.2016 (Annexure P-4) passed by respondent No.2 and order dated 17.01.2018 (Annexure P-7) passed by respondent No.1, being illegal, arbitrary, null and void, wrong, unjustified and against the principle of natural justice, whereby, respondent No.4 has been appointed Numbardar by respondent No.3 and the appeal and revision petition filed by the petitioner, have been dismissed.

Adumbrated facts of the case are that on the demise of Daljit Singh, earlier Numbardar of village Takkapura, Tehsil Baba Bakala, District Amritsar on 21.11.2012, process for the appointment of new Numbardar was initiated by the SDM, Baba Bakala on 24.01.2013. Proclamation was made in the village for inviting applications from the interested candidates and in pursuance to the same, two application were received from candidates, namely, Hardial Singh (respondent No.4) son of Inder Singh and Sukhdev Singh son of

Rajwant Singh (petitioner). Character verification of both the candidates was obtained and both the candidates were directed to appear before the Court of District Collector. The SDM, Baba Bakala sent his report recommending the name of Hardial Singh respondent No.4 for the appointment of the Numbardar. On the evaluation of inter-se merits of both the candidates, the Collector found Hardial Singh-respondent No.4 to be more meritorious and suitable and thus, appointed him as Numbardar of the village vide order dated 25.06.2013 (Annexure P-2). Aggrieved by the same, the petitioner filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the Commissioner, Jalandhar Division, Jalandhar. However, the learned Commissioner finding no merit in the appeal, dismissed the same vide order dated 23.05.2016 (Annexure P-4). The petitioner again assailed the same by way of filing a revision under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who after hearing both the sides, re-appreciated the case of both the petitioner and respondent No.4, and finding no infirmity in the same, dismissed the revision vide order dated 17.01.2018 (Annexure P-7). Thus, the order of the Collector was upheld up to the Court of learned Financial Commissioner. Hence, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that in pursuance to the proclamation made, the petitioner duly applied for the post of Numbardar. He submits that as per the facts and circumstances of the case, the petitioner was found to be 34 years of age and BA by qualification. Besides this, he owned 29 kanals of land in the village. He submits that as per verification report given by the police, the petitioner had a good moral character. He has submitted that respondent No.4 was 74 years of age and was

not literate, thus, the learned Collector has not appreciated the inter-se merits of both the candidates by judicial application of mind and hence, drawn wrong conclusion in appointing respondent No.4 as Numbardar of the village. He has submitted that as evident, the petitioner was younger in age and much more qualified than respondent No.4; besides this, the petitioner owned more land than respondent No.4, hence, there was no occasion for respondent No.4 to be appointed as Numbardar of the village. He has submitted that the Appellate and revisional authorities have also failed to appreciate the evidence on record and the law settled, thus, have drawn wrong conclusion. He has submitted that as per the law settled, the candidate younger in age should have been given preference and thus, there being perversity in the order passed by the learned Collector, which is illegally affirmed by both the Appellate and revisional authorities, deserves to be set aside by appointing the petitioner as Numbardar of the village.

Per contra, learned counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner and has submitted that though respondent No.4 is elder in age than the petitioner but as per the mandate of Rule 15 of the Punjab Land Revenue (Lamardari) Rules, 1908, respondent No.4 was more meritorious and suitable and hence, he has been rightly appointed as Numbardar of the village. She has submitted that respondent No.4 is retired constable from the Punjab Police and during his service he was honoured by the Police Department by awarding certificate by the DIG for discharging his duties sincerely. She submits that respondent No.4 also remained Sarpanch of the village and carried out various development works in the village. It is submitted that name of respondent No.4 was recommended by the majority of the villagers for his appointment as Numbardar. She submits that

respondent No.4 is middle pass and has a very good influence in the village on account of providing good services. She submits that simply because respondent No.4 is elder in age than the petitioner, is no ground to set aside his appointment. She has further submitted that there is no minimum qualification provided for the appointment of Numbardar and as respondent No.4 is middle pass, he is duly eligible for the appointment of Numbardar. She submits that the learned Collector committed no illegality in appointing respondent No.4 as Numbardar, which was subsequently affirmed by the Appellate and revisional authorities as well. She submits that there are concurrent findings in favour of respondent No.4 and there is no perversity in the appointment made by the Collector, the same cannot be interfered with in a causal manner. In support of her arguments, she has relied upon the judgment of this Court in **Sukhjinder Pal Singh Vs. State of Punjab and others**, 2016(3) R.C.R. (Civil) 725 and submits that as per the law settled, the Collector is the main authority for appointment of the Nambardar. She further submits that in view of the above, the present petition being devoid of any merit deserves to be dismissed.

Heard.

As evident from the documents on record, the petitioner was found to be 34 years and BA by qualification, whereas, respondent No.4 was found to be 74 years of age and middle pass. As per the mandate of Rule 15 of the Punjab Land Revenue (Lamardari) Rules, 1908, for the appointment of Numbardar various parameters as enumerated therein are to be taken into consideration. There is no gainsaying that respondent No.4 being 74 years was older in age than the petitioner. Besides this, respondent No.4 was middle pass. There is no minimum qualification provided for the appointment of the Numbardar in the Punjab Land Revenue Act. Learned Collector has taken into

consideration that respondent No.4 was retired from Punjab Police, where the service rendered by him was honoured by the Police Department and he was awarded commendation certificate by the DIG. Besides this, he remained Sarpanch of the village for a complete tenure of five years. As reflected from the record, respondent No.4 was having a good influence in the village and thus, his name was recommended by the villagers for the appointment of Numbardar. The petitioner remained unsuccessful before the Appellate and revisional authorities as well who affirmed the view taken by the learned Collector.

It is settled principle of law that the Collector is the prime authority in the appointment of the Nambardar and respondent No.4 was found to be more suitable for the appointment of the Nambardar. In **Sukhjinder Pal Singh's** case (supra), 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 the law settled, the Collector is the main authority for appointment of the Nambardar. 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.

All the three subordinate authorities have taken consistent view and thus, order passed by the Collector is found to be suffering from no perversity. This Court in **Hakam Singh vs. Financial Commissioner**

(Revenue), Punjab and others, 2016(4) RCR (Civil) 335 while dealing with the same question has held as under:-

“3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.”

In view of the facts and circumstances of the case and on the anvil of law settled, this Court does not find any perversity in the impugned orders and thus, the present petition is dismissed being devoid of any merit.

(RAJESH BHARDWAJ)
JUDGE

10.10.2023
sharmila

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