

109

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18460-2018 (O&M)

Date of Decision: December 21, 2023

Jaspal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Harparteek Singh Sandhu, Advocate
for the petitioner.

Mr.Akshita Chauhan, DAG, Punjab.

Mr.Sherry K.Singla, Advocate
for respondent No.4.

.....

RAJESH BHARDWAJ, J.(ORAL)

CM-21174-CWP-2023

For the reasons mentioned in the application, the same is
allowed. Annexures R-2 and R-3 are taken on record.

CWP-18460-2018

Petitioner has approached this Court praying for quashing the
order dated 25.05.2015, Annexure P-2, passed by respondent No.3, vide
which respondent No.4 has been wrongly appointed as Lambardar, orders
dated 25.05.2016 and 10.01.2018, Annexures P-3 and P-4, passed by
respondents No.2 and 1 respectively, vide which appeal and revision petition
filed by the petitioner have been dismissed without proper application of
mind and appreciation of facts.

Adumbrated facts of the case are that on the death of earlier

Lambardar Hardev Singh, village Bhame khurd, on 21.12.2012, the post fell vacant and thus, the process for appointment of new Lambardar was initiated. The *mustari munadi* was conducted for inviting applications from the interesting candidates. Resultantly, 12 applications were received. On considering the applications of the applicants and their character verification report, the Assistant Collector, Ist Grade, (SDM) vide its report, dated 02.02.2015, recommended the name of respondent No.4-Shri Amrit Singh to be appointed as Lambardar of the village. On perusing the *inter se* merits, the petitioner was found to be 35 years of age whereas respondent No.4 was 43 years of age. Besides this, the petitioner was BA Ist year by qualification and he remained Sarpanch of the village as well. On the other hand, respondent No.4 Amrik Singh was farmer by profession and he remained sarbrah Lambardar with his father for a long time and had an unblemished record. Petitioner -Jaspal Singh was found to be a debtor/defaulters. Thus, on the overall evaluation of *inter se* merits, the District Collector appointed respondent No.4 as Lambardar of the village vide its order dated 25.05.2015. Being aggrieved, the petitioner filed appeal before the Commissioner, who after hearing both the sides, dismissed the same, vide its order dated 25.05.2016. Still aggrieved, the petitioner filed the revision petition under Section 16 of the Punjab Land Revenue Act before the learned Financial Commissioner, however, on hearing both the sides, learned Financial Commissioner found no merit in the revision petition and thus, dismissed the same vide its order dated 10.01.2018 and hence, the appointment of respondent No.4 made by the Collector was upheld by the Commissioner and the Financial Commissioner as well.

Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has submitted that on perusal of the record, it is evident that the petitioner was younger in age than respondent No.4. Besides this, the petitioner was B.A.Ist year by qualification whereas respondent No.4 was illiterate. He submits that merits of the petitioner has been overlooked by the Collector and subsequent authorities simply on the ground that the petitioner was defaulter. However, he submits that the inquiry was conducted in the allegations against the petitioner being defaulter and the letter dated 07.09.2015 was written by the BDPO Jhunir to DDPO, Mansa, mentioning therein that the allegations against the petitioner regarding defaulter were found to be wrong. He submits that the learned Financial Commissioner has failed to appreciate the same. He has submitted that respondent No.4 has been appointed as Lambardar of the village being son of the earlier Lambardar, however, hereditary claim is no more sustainable as per law settled. He submits that as per law settled, the candidates younger in age deserves to be preferred. Admittedly, the petitioner was younger in age and more qualified than respondent No.4 and the allegations regarding his being a defaulter were also found to be false as is evident from the report dated 07.09.2015. Thus, the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

Per contra, learned counsel for respondent No.4 vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that age difference between the petitioner and respondent No.4 is

not a substantial difference as the petitioner was 35 years of age at the relevant time whereas respondent No.4 was 43 years of age. He submits that there is no minimum qualification required for the appointment of Lambardar as per the statutory provisions. He has submitted that respondent No.4 remained sarbrah Lambardar of the village during tenure of his father since the year 1994 and till date he served as Lambardar of the village and thus has the vast experience of serving the village as a Lambardar. It is submitted that the petitioner who remained Sarpanch of the village was found to be defaulter as is evident from the record. He further submits that the report dated 07.09.2015 is subsequent to the appointment made by the Collector and thus, at the time of consideration of the candidature, the petitioner was a defaulter and hence the report produced by the petitioner has no relevance. He submits that respondent No.4 has an unblemished record and finding him more meritorious he was recommended by the Assistant Collector Ist Grade for appointment as Lambardar. He submits that finding respondent No.4 as more meritorious, he was appointed as Lambardar by the Collector, which was duly upheld upto the Court of Financial Commissioner. He has relied upon **Jagdish Singh vs State of Punjab and others** 2014(36) RCR (Civil) 157 and states that for appointment of Lambardar age is important but is not the sole criteria. He has submitted that as per the law settled, Collector is the prime authority and thus, his order cannot be interfered unless the same suffers from any perversity. There being no perversity in the orders passed by the Collector, the impugned orders suffer from no infirmity and thus the petition being devoid of any merit deserves to be dismissed.

Heard.

After hearing the learned counsel for the parties and perusing the record, it is evident that on the death of earlier Lambardar, process was initiated and petitioner and respondent No.4 duly applied alongwith other candidates. On evaluation of the inter se merits and verification of the antecedents of all the candidates, respondent No.4 was found to be more meritorious. The petitioner remained Sarpanch of the village and he was found to be defaulter, though after appointment made by the Collector, report was relied upon by the counsel for the petitioner regarding his exoneration which was never part of the record before the Collector and thus, the same has no relevancy. Respondent No.4 was a son of earlier Lambardar, however, as evident from the record that the same was not the only factor considered for his appointment as a Lambardar of the village, however, all other inter se merits were duly compared with. Respondent No.4 had earlier remained sarbrah Lambardar and throughout his character was found to be totally unblemished. **Jagdish Singh's** case (supra) relied upon by the learned counsel for respondent No.4 is fully applicable to the present case as age is not the sole criteria to be considered for the appointment of Lambardar and other relevant factors are also required to be considered.

As per law settled, the Collector is the prime authority for consideration of the most suitable candidate for appointment of the Lambardar. On evaluation of their inter se merits, respondent No.4 was found to be most suitable candidate for the post of Lambardar and the same has been upheld by the appellate and revisional authority.

As per the law settled, there is no gainsaying that the choice of the Collector should not be disturbed in a cavalier manner. It is the Collector, who not only appreciates the record of the candidates but also personally interacts with them. 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.”

The same view was taken by the Hon’ble Division Bench of this Court in **Ravinder Singh vs. Financial Commissioner (Revenue), Punjab Chandigarh and others**, 2012(68) RCR (Civil) 288.

Thus, in view of the law settled, this Court does not find any perversity in the impugned orders and thus the present petition, being devoid of any merit, is hereby dismissed.

December 21, 2023

meenuss

1. Whether speaking/reasoned ?
2. Whether reportable ?

(RAJESH BHARDWAJ)
JUDGE

Yes/No
Yes/No