

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

CWP-16123-2023

Date of decision: 14.09.2023

Sucha Singh

... Petitioner

Versus

Financial Commissioner Appeals and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amit Puri, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 09.10.2018 (Annexure P-1) passed by respondent No.3, order dated 19.05.2022 (Annexure P-3) and order dated 01.12.2022 (Annexure P-4) passed by respondent No.1 being illegal, void ab-initio, unconstitutional, arbitrary, discriminatory and against the provisions of Punjab Land Revenue Act, 1887 (for short, 'the Act').

Adumbrated facts of the case are that Sucha Singh son of late Joginder Singh gave an application praying that his father was permanent Lambardar of the village, who died on 19.10.2017 and as he had served as Sarbrah Lambardar for his father for 14-15 years, he may be appointed as Lambardar of the village in his father's place. After receiving report dated 15.02.2018 from Assistant Collector Grade II, Nabha, approval was granted to fill up the vacant post of Lambardar of the village. In pursuance to the same, *Mushtari Munadi* was conducted in the village for inviting the applications from the eligible candidates. As a result, two applications were received from the candidates, namely, Sucha Singh (petitioner) and Gurdeep Singh

(respondent No.4). Character verification of both the candidates were conducted. On receiving file, it was registered and on 28.08.2018, Makhan Singh son Hakam Singh presented application for his appointment as Lambardar stating there that he was 9th class pass and owner of 3 acres of land. On the appreciation of the applications, Sucha Singh (petitioner) was found to be about 57 years, having experience of 14-15 years as Sarbrah Lambardar and owner of 22 kanals 8 marlas of land. As far as respondent No.4-Gurdeep Singh is concerned, he was found to be 32 years of age, 12th class pass and having 25 Kanals of land. On the overall evaluation of the merits of the candidates, the Collector appointed respondent No.4 -Gurdeep Singh as Lambardar of the village vide order dated 09.10.2018 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal under Section 13 of the Act before the Commissioner, Patiala Division, Patiala, who after hearing both the sides, accepted the same vide order dated 05.10.2020 (Annexure P-2) while setting aside the order dated 09.10.2018 and Sucha Singh petitioner was ordered to be appointed as Lambardar of the village. Against the order dated 05.10.2020, respondent No.4-Gurdeep Singh filed appeal before the Financial Commissioner, who finding merit in the appeal accepted the same and set aside the order dated 05.10.2020 passed by the Commissioner and thus, restored the order dated 09.10.2018 passed by the Collector, vide order dated 19.05.2022 (Annexure P-3). Thereafter, the petitioner filed a review petition before the Financial Commissioner, however, the same was dismissed by the learned Financial commissioner vide order dated 01.12.2022 (Annexure P-4). Aggrieved the same, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has contended that the petitioner before this Court is the son of deceased Lambardar, namely, Joginder Singh, and had worked as Sarbrah Lambardar of the village for about 14-15 years. He has submitted that the petitioner was 57 years of age at the time of filing of application and studied upto 9th class and besides this he owned 22 kanals 8 marlas of land. He has submitted that age wise also, the petitioner being a matured person had enough experience and besides this, he remained Sarbrah Lambardar for a considered long time. He has submitted that the petitioner was more suitable for the post of Lamardar to be appointed, however, the Collector, illegally appointed respondent No.4, who was much younger and had no experience as Lambardar as well. He has submitted that the appeal filed by the petitioner against the order of the Collector was rightly accepted by the Commissioner, wherein, the order of the Collector was set aside and petitioner was directed to be appointed as Lambardar of the village, however, learned Financial Commissioner miserably failed to appreciate the evidence on record and the law settled and thus, illegally accepted the appeal filed by respondent No.4. He has submitted that the review petition filed by the petitioner was also illegally declined by the Financial Commissioner. He further submits that as is evident from the overall facts and circumstances of the case, the petitioner is a reputed person of the village and had enough experience for discharging duties of Lambardar as he served as Sarbrah Lambardar as well. He has submitted that in view of the facts and circumstances of the case and the law settled, the impugned orders deserve to be set aside and the petitioner be directed to be appointed as Lambardar of the village.

Heard.

On hearing learned counsel for the petitioner and perusing the record, it is apparent that on the death of earlier Lambardar, Joingder Singh, process for the appointment of Lambardar was initiated. *Mushtari Munadi* was conducted and in pursuance to the same, petitioner-Sucha Singh, respondent No.4-Gurdeep Singh and one Makhan Singh applied for the post. Their character verifications were done. On comparison of the inter-se merits of the candidates and perusing the relevant record, the Collector appointed respondent No.4 as Lambardar of the village. However, in the appeal filed by the petitioner, the order passed by the Collector was not only set aside, but also the petitioner was directed to be appointed as Lambardar of the Village. Thereafter, respondent No.4 filed appeal before the Financial Commissioner, which was accepted by restoring the order passed by the Collector and thus, the order passed by the Collector was upheld. The review petition filed by the petitioner was also dismissed by the Financial Commissioner. Perusal of the inter-se merits of the petitioner and respondent No.4 shows that respondent No.4 is younger than the petitioner and even more qualified than him. Besides this, respondent No.4 has nothing adverse against him, which could adversely affect his reputation in the village as required for the appointment of a person as a Headman of the village. 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.

Besides this, 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 the 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.

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

(RAJESH BHARDWAJ)
JUDGE

14.09.2023
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No