

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

CWP-15823-2023

Date of decision : 05.09.2023

Bahadur Singh

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. J.S. Mundi, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Sherry K. Singla, Advocate
for respondent No.6.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 02.02.2023 (Annexure P-6) passed by respondent No.1, dismissing the ROR (Annexure P-5), in limine, without discussing the settled proposition of law and the judgments passed by this Court in highly illegally, arbitrary, discriminatory and perverse manner and thus, not sustainable in the eyes of law. Further prayer has been made that the order dated 30.11.2021 (Annexure P-4) passed by respondent No.2 may kindly be restored and the case be remanded back to Deputy Commissioner-cum-District Collector.

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Gurdev Singh, the post of Lambardar fell vacant in the Village on 01.03.2018. Resultantly, the process for the appointment of

new Lambardar was initiated on 13.03.2019. The *mustri munadi* was conducted by the Tehsildar, Roopnagar for inviting the applications from the eligible candidates. In pursuance to the same, five applications were received from the candidates namely, Kulwinder Singh son of Jaspal Singh; Bahadur Singh son of Dalip Singh (petitioner); Sukhwinder Singh son of Gajra Singh; Karam Singh son of Ganga Singh and Kulwinder Singh son of Jai Dev Singh (respondent No.6). The candidates were heard personally. On verification of their record, petitioner Bahadur Singh was found to be 60 years of age and by qualification, he was 5th pass. Besides this, he owned 20 kanals 18 marlas 04 sarsai of land whereas, respondent No.6-Kulwinder Singh was found to be 36 years of age and by qualification, he was 12th pass. Besides this, he owned 13 kanals 08 marlas of land. Thus, out of all the candidates, the Assistant Collector 1st Grade, Roopnagar recommended the name of Bahadur Singh i.e. petitioner to be the Lambardar of the Village vide his order dated 04.09.2019. However, learned District Collector on appreciation of the *inter se* merits of all the candidates and the recommendations made by the subordinate officers, found Kulwinder Singh i.e. respondent No.6 to be more suitable and thus, appointed him as Lambardar of the Village vide order dated 07.09.2020. Aggrieved by the said order, petitioner filed an appeal before the Commissioner, Roopnagar, however, learned Commissioner did not agree with the appointment made by the District Collector and thus, accepted the appeal by remanding the case back to the Deputy Commissioner-cum-District Collector, Roopnagar for a decision afresh vide his order dated 30.11.2021. Aggrieved by this order, respondent No.6 filed the appeal under Section 13 of the Punjab Land

Revenue Act, 1887 (as amended upto date) before learned Financial Commissioner, Revenue, Punjab, Chandigarh. However, learned Financial Commissioner after hearing both the sides and perusing the record found the appointment made by the District Collector to be more rational and hence, accepted the appeal filed by respondent No.6 by upholding the order passed by learned District Collector. Thus, aggrieved by the order of learned Financial Commissioner, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that respondent No.6 after applying for the post of Lambardar had withdrawn his application but despite that, he has been appointed by the Collector as Lambardar. He has invited the attention of this Court to the statement annexed as Annexure P-1 to this petition wherein the respondent No.6 had deposed that if Sukhwinder Singh son of Garja Singh is appointed as Lambardar of Village than he would have no objection regarding the same. He submits that once respondent No.6 had withdrawn his application, he was no more eligible for the post of Lambardar and thus, his appointment is totally beyond the evidence on record. It is submitted that petitioner being elder in age is more mature and has rich experience required for discharging the duty of Lambardar. He has submitted that the petitioner owns more land than that of respondent No.6 which was rightly appreciated by the Commissioner and hence the case was remanded by the Commissioner vide his order dated 30.11.2021 for decision afresh. However, learned Financial Commissioner-respondent No.1 has totally ignored the same and illegally *set aside* the well reasoned order passed by the Commissioner. He

submits that the impugned order being unsustainable in the eyes of law, deserve to be *set aside*.

Per contra, learned counsel for respondent No.6 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that respondent No.6 had withdrawn his application is totally a mis-interpretation of the statement made by him. He has submitted that the respondent No.6 had simply made the statement that in case Sukhwinder Singh is appointed as Lambardar, he would have no objection. He has submitted that by no stretch of imagination, the same can be treated as withdrawal of the application filed by respondent No.6 for being appointed as Lambardar. He submits that learned Collector had duly appreciated the antecedents of both the candidates and on perusing their *inter se* merits, respondent No.6 was rightly appointed as Lambardar of the Village. He has submitted that the findings arrived at by the Commissioner were totally beyond the facts and circumstances of the case and hence, the same being unsustainable in the eyes of law and were rightly set aside by respondent No.1-Financial Commissioner. He submits that the learned Financial Commissioner re-appreciated the evidence arrived at by the Collector. As evident, it was found that respondent No.6 was younger in age and more qualified than that of the petitioner and hence, he was rightly appointed by the Collector which has also been upheld by the learned Financial Commissioner.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that the process for the appointment of Lambardar of the Village was initiated on account of death of earlier Lambardar namely, Gurdev Singh. The *mustri munadi* was conducted by

the Tehsildar, Roopnagar for inviting the applications from the eligible candidates. In pursuance to the same, five applications were received from the candidates. On comparing *inter se* merits of the candidates, the petitioner-Bahadur Singh was found to be 60 years of age and he was 5th pass. Besides this, he owned 20 kanals 18 marlas 04 sarsai of land whereas, respondent No.6-Kulwinder Singh was found to be 36 years of age and he was 12th pass. Besides this, he owned 13 kanals 08 marlas of land. On analysis of their *inter se* merits, the Assistant Collector 1st Grade, Roopnagar found petitioner-Bahadur Singh to be the most suitable candidate and thus, recommended his name for appointment as Lambardar of the Village vide his order dated 04.09.2019. Learned District Collector on appreciation of the *inter se* merits of all candidates and also after considering the recommendations made by the Subordinate Officer, appointed respondent No.6 as Lambardar of the Village vide order dated 07.09.2020. Aggrieved by the same, petitioner filed an appeal before the Commissioner, Roopnagar who accepted the same and remanded the case back to the District Collector for decision afresh. On further challenge of this order by respondent No.6, learned Financial Commissioner, Punjab found the order of Collector to be rational and as such accepted the appeal filed by respondent No.6 upholding his appointment as Lambardar by the order of District Collector. It is a settled law that choice of the Collector should not be interfered until and unless it suffers from perversity.

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.

In the considered opinion of this Court, the order dated 02.02.2023 passed by the Financial Commissioner, Punjab does not suffer from any illegality or perversity and as such, the same is upheld. Consequently, the present petition being devoid of any merits is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

05.09.2023
m. sharma

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