

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

**CWP No.20291 of 2021 (O&M)
Date of decision : 11.08.2023**

Inderjit Singh

..... Petitioner

Versus

The Financial Commissioner (Appeals) Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Mr. Ashish Aggarwal, Senior Advocate with
Mr. Paramjit Rajput, Advocate and
Mr. Vishal Pundir, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J. (Oral)

Present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 17.05.2021 (Annexure P-1) passed by Financial Commissioner (Appeals), Punjab, Chandigarh as well as order dated 21.10.2020 (Annexure P-2) passed by the Commissioner, Jalandhar Division, Jalandhar the orders being against the provisions of Punjab Land Revenue Rules & Act, 1887 and the order dated 15.03.2018 (Annexure P-3) passed by the Collector, Kapurthala be upheld, who had rightly and

legally appointed the petitioner as Lambardar of village Kamrai, Tehsil Bholath, District Kapurthala.

It has been contended by learned counsel for the petitioner that after the death of previous Lambardar, namely, Surjit Singh of village Kamrai, Tehsil Bholath, District Kapurthala, process for appointment of new Lambardar was initiated and applications were invited from the villagers. In pursuance to the same, six candidates applied for the same. Their character verification was conducted and *interse* merits were appreciated. However, out of six candidates, only respondent No.4, namely, Kamaljit Kaur and the petitioner were present on the final day. On 15.03.2018, on the day of arguments, only candidate, namely Inderjit Singh was present in Court. It was found that he was 54 years of age and 8th class pass. Thus, the District Collector appointed Inderjit Singh as Lambardar of village Kamrai, Tehsil Bholath, District Kapurthala vide order dated 15.03.2018. Aggrieved by the same, respondent No.4 filed an appeal against the same under Section 13 of the Punjab Land Revenue Act before the Commissioner, Jalandhar. Learned Commissioner, after hearing both the sides, found respondent No.4 to be more educated; younger in age and holding more land than the petitioner and thus, set aside the order passed by the Collector dated 15.03.2018 and appointed respondent No.4- Kamaljit Kaur as Lambardar of village Kamrai vide his order dated 21.10.2020. Aggrieved by the same, the petitioner filed an appeal before the Financial Commissioner, however, the learned Financial Commissioner, after hearing both the sides, dismissed the appeal filed by

the petitioner and upheld the order passed by the Commissioner dated 21.10.2020 vide order dated 17.05.2021.

It has been submitted by learned counsel for the petitioner that obviously the petitioner was the choice of the Collector and the same could not have been set aside in a casual manner as per the law settled. After the appointment of petitioner as Lambardar of village Kamrai, Tehsil Bholath, District Kapurthala on 15.03.2018, he was falsely implicated in an FIR dated 15.05.2018 pertaining to the theft of electricity. He further submits that FIR was registered after the appointment of petitioner as Lambardar and even otherwise, the same is a compoundable offence for which the petitioner has already paid the complete dues and thus, there is no stigma against the petitioner as such. He submits that the learned Commissioner has totally fallen in error in setting aside the well reasoned order passed by the Collector. He further submits that the order passed by the Commissioner suffers from patent illegality for the reasons that he not only set aside the order passed by the Collector but has appointed respondent No.4 as Lambardar, which issue is already pending before the Larger Bench of this Court and thus, deserves to be set aside by restoring the order passed by the Collector. He submits that learned Financial Commissioner also failed to appreciate the same and thus, illegally declined the appeal filed by the petitioner.

Learned Senior Counsel appearing on behalf of respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that evidently on comparison of the

interse merits of petitioner and respondent No.4, respondent No.4 was obviously more meritorious than the petitioner. He has submitted that respondent No.4 was younger in age and more educated than the petitioner. Besides this, FIR was also registered against the petitioner after having been appointed as Lambardar. Learned Senior Counsel has submitted before this Court that respondent No.4 applied for appointment as Lambardar but at the time of appointment by the Collector, she was proceeded *ex parte* as is evident from the record. He submits that from the impugned order passed by learned Collector on 15.03.2018, it is apparent that on the date of arguments on 15.03.2018, the only candidate present was Inderjeet Singh, i.e. the petitioner and respondent No.4 was not even provided an opportunity to present her case and thus, the appointment of petitioner was made by the Collector at the back of respondent No.4. He submits that in the facts and circumstances of the case, it is apparent that respondent No.4 was restrained from participation in the process of appointment. He submits that in view of the same, impugned order suffers from no illegality and thus, the respondent No.4 has rightly been appointed as Lambardar which decision has been upheld by the learned Financial Commissioner vide order dated 21.10.2020.

After hearing learned counsel for both the sides and perused the material on record, it is apparent that process for appointment of new Lambardar was initiated and applications were invited from the villagers/residents. In all, there were six candidates, who applied for the same. However, at the time of appointment, it was only the petitioner,

namely, Inderjit Singh, whose candidature was appreciated by the Collector and as such, he was appointed as Lambardar. In the appeal filed by respondent No.4, the Commissioner not only set aside the order of Collector but appointed respondent No.4, which was upheld by the learned Financial Commissioner in the impugned order. As submitted before this Court and which is apparent from the record that on the date of appointment, only candidature of the petitioner was appreciated and respondent No.4 was not even considered on 15.03.2018 and thus, in the overall facts and circumstances of the case, this Court is of the opinion that the process of appointment suffers from patent illegality as the fair opportunity has not been afforded to respondent No.4. Thus, the impugned orders dated 17.05.2021 and 21.10.2020 are set aside and to meet the ends of justice, the present case is remanded to the Collector for deciding the case afresh after providing due opportunity to both the petitioner and respondent No.4. As the case pertains to 2021, learned Collector is directed to decide the case afresh within a period of two months from the date of receipt of certified copy of this order.

In view of the above, the present petition stands disposed of.

(RAJESH BHARDWAJ)
JUDGE

11.08.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No