

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

CWP-26171-2016

Date of decision : 02.09.2023

Harbachan Lal

.....Petitioner

versus

Financial Commissioner Appeals Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rahul Vijay Singh Chugh, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Mr. Madan Sandhu, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 03.08.2016 (Annexure P-6) passed by respondent No.1 vide which order dated 16.05.2016 (Annexure P-5) passed by learned Commissioner Roop Nagar Division, Roop Nagar was wrongly and illegally upheld along with order dated 23.04.2010 (Anneuxre P-3) passed by learned District Collector, SAS Nagar, Mohali vide which respondent No.4 was appointed as Lambardar of Village Rangian, Tehsil Kharar and District SAS Nagar, Mohali thereby ignoring the recommendations of the lower revenue officials and Tehsildar Kharar as well as Sub Divisional Magistrate-cum-Assistant Collector Grade I, Kharar.

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Baldev Sahaye on 27.08.2008, the process for the appointment of new Lambardar was initiated. The proclamation was made

for inviting the applications from the eligible candidates. In pursuance to

the same, three applications from the three candidates namely, Harbachan Lal (petitioner), Satpal and Hari Om (respondent No.4) were received. The scrutiny of their applications were carried out and their antecedents were verified. On verification of the same, it was found that petitioner Harbachan Lal was 57 years of age and was 8th class pass. Besides this, he owned 20 kanals and 09 marlas of land in the village. So far respondent No.4 is concerned, he was found to be 47 years of age and was post-graduate having degree of MA(Economics). Besides this, he owned 23 kanals 19 marlas of land in the village. He had impeccable record and participated in the N.S.S. Camps. Learned Collector on complete analysis of inter se merits of all the candidates in the fray found respondent No.4 to be more suitable and thus, appointed him as new Lambardar vide his order dated 23.04.2010. Aggrieved by the same, petitioner filed an appeal under Section 13 of the Punjab Land Revenue Act before the Commissioner, Patiala Division, Patiala. Learned Appellate Court heard both the sides and perused the record and finding no merit in the appeal, dismissed the same vide his order dated 16.05.2016. Petitioner assailed the said order by filing the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before learned Financial Commissioner (Appeals) Punjab, Chandigarh. Learned Financial Commissioner heard both the sides and perused the record. However, finding no merit in the revision, also dismissed the same vide order dated 03.08.2016. Hence, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the respondents-authorities have failed to appreciate the evidence on

record and thus, fallen in error in drawing the conclusion of appointing respondent No.4 as Lambardar of the Village. He submits that the Assistant Collector Grade II, Kharar had recommended the name of petitioner and thus, had sent his recommendation to Assistant Collector Grade I, Kharar who agreed with the report of Assistant Collector Grade II and thus, recommended the name of petitioner to be appointed as the Lambardar. He has submitted that the grand-father (Surat Ram) of petitioner had remained Sarbrah Lambardar. He has further submitted that petitioner is a social worker as he takes keen interest in the public welfare works. It is submitted that respondent No.4 was a defaulter in payment of the government revenue on the date of appointment as he refused to deposit the chowkidara and this fact was reported by Jagtar Singh Chowkidar of Village Rangian to Tehsildar Kharar and thus, he could not have been appointed as Lambardar. He submits that the impugned orders passed are cryptic as they have assigned no reason in rejecting the candidature of the petitioner. It is submitted that the impugned orders being perverse deserve to be *set aside* and the petitioner be appointed as Lambardar of the Village.

Per contra, learned counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner. From perusal of the inter se merits of both the petitioner and respondent No.4, it is evident that the respondent No.4 was younger in age than the petitioner. Besides this, he was much more qualified than the petitioner. He has submitted that respondent No.4 also owned more land than the petitioner. He has further submitted that the contentions raised by counsel for the petitioner regarding answering respondent being defaulter is not substantiated from

the record. He has submitted that from the record produced, it is apparent that the dues of Rs.2,464/- had been received by the petitioner on 06.03.2009 and thus, the dues, if any, towards the respondent, were paid much prior to the date of his appointment as Lambardar. He has submitted that as per the settled law, the view taken by the Collector should not be interfered in a cavalier manner. He submits that there are concurrent findings by the respondents-authorities in favour of the respondent No.4 and thus, there being no perversity in the orders passed by the respondents-authorities, the present petition deserves to be dismissed.

Heard. After hearing counsel for the parties and perusing the record, it is evident that for the appointment of new Lambardar, the process was initiated. The proclamation was made and applications were invited. Pursuance to the same, three applications were received. On comparison of the *inter se* merits of petitioner and that of respondent No.4, the Collector found respondent No.4 to be more suitable candidate and hence, he was appointed as Lambardar vide order dated 23.04.2010. The allegations made by the petitioner against respondent No.4 that he was defaulter in payment of the government revenue is without any force as there is nothing on record to substantiate the same. Respondent No.4 obviously was younger in age and much more qualified.

As per settled proposition of law by the Hon'ble Supreme Court in the judgment titled as **Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757** the candidate who is younger in age should have been given the preference. Besides this, as per the law settled, the view taken by the Collector should not be interfered in a cavalier manner.

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 facts and circumstances of the case and the law settled, this Court does not find any perversity or infirmity in the orders passed by the Collector, Appellate and Revisional Authorities and thus, the petition being devoid of any merits is hereby dismissed.

02.09.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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