

CWP-15885-2023
Date of Decision: 26.07.2023

..... Petitioner

Financial Commissioner (Appeals) and othersRespondents

Present: Mr.Rai Singh Chauhan, Advocate and
Mr. Balram Singh, Advocate, for the petitioner.

Prayer in the present petition is for quashing the order dated 29.05.2023 (Annexure P-11) passed by respondent No.1 i.e. the Financial Commissioner and order dated 02.11.2022 (Annexure P-9) passed by respondent No.2 i.e. Commissioner, Jalandhar Division, Jalandhar.

It has been contended by learned counsel for the petitioner that after the death of Gurdeep Singh Sandhu, Lambardar of the village Mohkamgarh/17, Tehsil Dasuya, District Hoshiarpur, post of Lambardar fell vacant and hence, proceedings for appointment of new Lambardar were initiated. Mushtari Munadi was conducted in the village regarding appointment of general Lambardar. He has submitted that in pursuance to the same, six applications were received and their character verification was got done from the SHO Police Station Tanda. He has submitted that personal details of the candidates are as under:-

Sr. No.	Name of the candidate	Age	Qualification	Land	Caste	Occupation	Ex service man	Remarks
1.	Jagvir Singh Kalkat son of Jagir Singh	32	M.A.	1-5	Jatt	Agriculture		
2.	Surjit Singh son of Piara Singh	64	Higher Secondary	1-1	Jatt	Agriculture		
3.	Tejinder Singh	53	B.A.	1-1	Jatt	Agriculture		

	son of Piara Singh							
4.	Manjit Singh son of Kartar Singh	60	10 th	3-4	Jatt	Agriculture		
5.	Onkar Singh son of Pakhar Singh	39	12 th	5-19	Jatt	Agriculture		
6.	Amarjit Singh son of Gurdeep Singh	39	12 th	5-5	Jatt	Agriculture		

Learned counsel for the petitioner has submitted that analysis of the inter-se merits was conducted and Naib Tehsildar, Tanda recommended the name of petitioner, namely, Manjit Singh for the appointment of Lambardar. He has submitted that SDM, Dasuya agreed with the report of Naib Tehsildar, recommended the name of petitioner for appointment of Lambardar and forwarded his report dated 20.11.2020 (Annexure P-5) to the District Collector. He submits that on complete analysis of the record of the candidates, the learned Collector found Manjit Singh petitioner to be the most suitable candidate for the post of Lambardar and thus, appointed him as Lambardar of the village vide order dated 15.07.2021 (Annexure P-6). He has submitted that appointment of the petitioner was assailed by respondent No.4 by way of filing appeal under Section 13 of the Punjab Land Revenue Act 1887 before the learned Commissioner, Jalandhar, who without appreciating the inter-se merits and the law settled, set aside the order of appointment of the petitioner for the post of Lambardar vide impugned order dated 02.11.2022 (Annexure P-9). He has submitted that the impugned order passed by the learned Commissioner is totally cryptic and has been passed without assigning any reasons. He has submitted that the petitioner assailed the order dated 02.11.2022 by way of filing revision petition before the learned Financial

Commissioner, however, the learned Financial Commissioner as well passed a cryptic order and thus declined the revision filed by the petitioner vide order dated 29.05.2023 (Annexure P-11). It has been submitted by learned counsel for the petitioner that the petitioner is 60 years of age; matriculate; permanent resident of the village and owns sufficient land as well. He submits that besides this he is a Panch of the Gram Panchayat of the village and bears a good moral character. It is submitted that name of the petitioner was recommended by the subordinate revenue authorities on the examination of merits of all the candidates, who applied for the post of Lambardar. He has submitted that as per law settled, the choice of the Collector would get the precedence and the same should not be disturbed by the Appellate authorities in a casual manner. He has submitted that both the Appellate and revisional authorities have fallen in error in passing cryptic orders against the petitioner without assigning any reason. He has submitted that both the Courts below have also taken the decision which is contrary to the law settled. He has relied upon judgments of Hon'ble Supreme Court in case of M/s Kranti Associates Pvt. Ltd. and another vs. Sh. Masood Ahmed Khan and others, 2010(4) RCR (Civil) 600; Mahavir Singh vs. Khiali Ram and others, 2009(1) RCR (Civil) 757 and judgments of this Court in case of Sucha Singh vs. Bhalwan, 1999(1) RCR (Civil) 614 and Sukhpal Singh vs. State of Punjab and others, passed in LPA No.107-2023 on 06.02.2023.

Heard.

As is evident from the record of the case, applications were invited for filling up the post of Lambardar of village Mohkamgarh/17, Tehsil Dasuya, District Hoshiarpur and consequent to that six applications were received. Character verification of all the candidates in fray was done

and their inter-se merits were compared and the petitioner was found to be 60 years of age and matriculate. Besides this, he was the Panch of the Gram Panchayat as well. So far respondent No.4 is concerned, he was found to be 32 years of age and MA by qualification. There is no gainsaying that the petitioner was virtually double of the age of respondent No.4 and the petitioner was less qualified than respondent No.4. However, the Collector appointed the petitioner as Lambardar of the village. Though as per law settled, choice of the Collector has to be given weightage and the same should not be interfered in a casual manner, however, in the appeal filed by respondent No.4, it had been observed that on perusal of the inter-se merits of both the petitioner and respondent No.4, respondent No.4 being younger in age and more qualified, was found more suitable for his appointment as Lambardar of the village. Hon'ble Supreme Court in Mahavir Singh's (supra) has held that age is the relevant factor for the appointment of Lambardar.

Respondent No.4 being younger in age was more energetic than the petitioner, but the learned Collector failed to appreciate the same and opted the petitioner to be the Lambardar of the village. In the overall facts and circumstances on comparing the inter-se merits of the petitioner and respondent No.4 and the law settled, the case of both the petitioner and respondent No.4 deserves to be re-appreciated and thus, the Commissioner and Financial Commissioner have rightly remanded the case to the Collector for decision afresh.

There is no dispute regarding the law settled in various judgments cited by learned counsel for the petitioner, however, the same are distinguishable in the facts and circumstances of the case in hand. The

reappreciation of the case afresh would also meet the ends of justice.

In view of the facts and circumstances of the case and in the light of the law settled, this Court is in agreement with the view taken by both the Appellate authority as well as revisional authority. Hence, finding no perversity in the view taken by both the Appellate as well as revisional authorities, the present petition is dismissed being devoid of any merit. The Collector is directed to decide the case afresh by taking into consideration the overall facts and circumstances on the record, in the light of the law settled.

26.07.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No