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

**CWP No.22276 of 2019
Reserved on 12.09.2023
Date of Pronouncement: 26.09.2023**

Paramjit Lal

..... Petitioner

Versus

**The Financial Commissioner (Appeals), Punjab,
Chandigarh and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rai Singh Chauhan, Advocate with
Mr. Rohit Sapehiya, Advocate and
Ms. Deepika Chauhan, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Umesh Kumar Kanwar, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for issuance of a writ in the nature of certiorari for quashing the order dated 22.04.2019 (Annexure P-11) passed by respondent No.1 vide which the revision petition filed by respondent No.4 has erroneously been accepted and respondent No.4 has illegally been appointed as S.C. Lambardar of village Khatti, Tehsil Phagwara, District Kapurthala and the order passed by learned Collector Kapurthala dated 25.02.2014 (Annexure P-3) and that of the Commissioner (Appeals) Jalandhar Division Jalandhar dated 23.08.2016 (Annexure P-5)

have erroneously been reversed by passing a non speaking and cryptic order, which is not sustainable and is liable to be set aside. Further prayer has been made that the order passed by the Commissioner (Appeals) Jalandhar Division Jalandhar vide which the appeal of respondent No.4 was dismissed vide order dated 23.08.2016 (Annexure P-5) and the order passed by the learned Deputy Commissioner-cum-Collector Kapurthala dated 25.02.2014 (Annexure P-3) vide which the petitioner was appointed as S.C. Lambardar by passing a detailed order and Sanad Lambardari was issued on 09.12.2016 (Annexure P-6) and since then the petitioner was performing the duty of Lambardar the same may be upheld in the interest of justice.

Brief facts of the case are that the learned Commissioner, Jalandhar Division Jalandhar vide order dated 26.09.2011 created a new post of Harizan lambardari in village Khatti, Tehsil Phagwara, District Kapurthala and thus, the process for appointment of Lambardar to the post was initiated. The Naib Tehsildar, Phagwara got conducted the Mustri Munadi in the village and invited applications from the interested candidates. In response to the same, seven candidates applied including the petitioner and respondent No.4. Character verification of all the candidates were got conducted. On appreciation of the applications, the petitioner was found to be 40 years of age and was matric by qualification. Besides this, he owned 1 kanal 10 marla of land and he was doing agriculture work and business. So far as respondent No.4 is concerned, he was found to be 47 years of age and was under matric by qualification. Besides this, he owned 03 kanal of land. On the overall evaluation of merits and demerits of the candidates, the Naib Tehsildar, Phagwara found the petitioner, namely, Paramjit Lal as the suitable candidate and thus, recommended his name for the appointment as Lambardar and the

same was forwarded to the SDM Phagwara. The SDM Phagwara agreed with the report of the Naib Tehsildar and thus, recommended the name of petitioner for the appointment of Lambardar. Learned District Collector heard all the candidates personally along with their counsels and finally agreed with the recommendations made in favour of Paramjit Lal and thus, finding him more suitable, appointed him as the Lambardar of village Khatti vide order dated 25.02.2014. Aggrieved by the same, three appeals were filed before the Commissioner, Jalandhar. One by respondent No.4 and other two by co-applicants, namely, Ram Kishan and Jarnail Singh. All three appeals were heard together by the Commissioner. The learned Commissioner, on hearing all the parties through their counsels, found no merit in the appeals and thus, dismissed all three appeals vide his order dated 23.08.2016. Thus, the order passed by the District Collector was upheld by the learned Commissioner. **The sanad lambardari was issued by the Collector in favour of petitioner, Paramjit Lal, on 09.12.2016.** Aggrieved by the same, respondent No.4 filed the revision petition under Section 16 of the Punjab Land Revenue Act before the learned Financial Commissioner. The learned Financial Commissioner, heard both the sides and thus, finding merit in the revision petition filed, he accepted the same and appointed respondent No.4 as the Lambardar of village vide impugned order dated 22.04.2019. Hence, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on the initiation of process for the appointment of Lambardar, the petitioner had duly applied for the same. He submits that on receipt of the applications from all the candidates, their character verification was got conducted. He submits that the petitioner was 40 years of age whereas

respondent No.4 was 47 years of age. The petitioner had passed matric by qualification whereas respondent No.4 was under matric. He submits that evidently the petitioner was younger in age than respondent No.4. He further submits that though the petitioner was involved in FIR No.14, dated 25.02.1997 under Sections 323, 325 and 34 IPC. However, he was acquitted by this Court in CRR No.637 of 2002, which was decided on 16.04.2009. He submits that the petitioner thereafter was appointed as Lambardar on 25.02.2014 whereas he was acquitted in the FIR registered against him about 05 years prior to the date of his appointment. He submits that once the petitioner has already been acquitted by this Court, there does not remain any stigma against him. He submits that evidently the petitioner is younger in age than respondent No.4 and thus, the petitioner had a right to be considered over respondent No.4. He has relied upon the decision passed by Hon'ble the Supreme Court in *Mahavir Singh Vs. Khiali Ram*, 2009(1) RCR(Civil) 757 wherein it has been held that a candidate who is younger in age should have been given the preference. He submits that the appeal filed by respondent No.4 and two other co-applicants were heard. As no merit was found by the learned Commissioner thus, all the three appeals were dismissed. He submits that in the revision filed, the learned Financial Commissioner has drawn a wrong conclusion wherein he not only set aside the well reasoned orders passed by the Collector and the Commissioner but also appointed respondent No.4 as Lambardar, which is against the law settled. He submits that once the petitioner is acquitted in the FIR registered, he carries no stigma. He further submits that in view of the facts and circumstances of the case and the law settled, the impugned order passed by learned Financial Commissioner deserves to be set aside.

On the other hand, learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He submits that there is an admitted fact that the petitioner was involved in FIR No.14, dated 25.02.1997 and thereafter he was convicted by the trial Court as well. However, in the revision filed by the petitioner, he was acquitted by this Court on the basis of compromise arrived at between the parties. Thus, the petitioner is acquitted not on the basis of merits but on the basis of compromise arrived at. He submits that respondent No.4 has no criminal antecedents and thus, there was a perversity in the order passed by the Collector and the Commissioner. Hence, the view taken by the learned Financial Commissioner suffers from no illegality in interfering with the perverse orders passed and hence, the present petition being devoid of any merit deserves to be dismissed.

I have heard learned counsel for the parties and perused the material on record.

After hearing counsel for the parties and perusing the record, it is apparent that the petitioner was found to be 40 years of age and matric by qualification by the Collector. Besides this, he owned 01 kanal 10 marlas of land whereas, respondent No.4 was found to be 47 years of age and was under matric and he owned 03 kanals of land. The comparison of the *inter se* parameters like the age, qualification and the holdings of land by both the candidates, do not make substantial difference between both of them. The crucial issue involved is that the petitioner was prosecuted in FIR No.14 dated 25.02.1997 under Sections 323, 325 and 34 IPC and he was convicted by the trial Court vide order dated 16.03.2001 and was sentenced for one year rigorous imprisonment under Sections 325/34 IPC for causing grievous hurt

to Taro and Usha; six months rigorous imprisonment for the offence under Section 323 IPC for causing hurt to Taro and Usha and 06 months rigorous imprisonment under Section 323 IPC for causing hurt to Kuldip Kumar. However, in the criminal revision i.e. CRR-637-2022, the petitioner was acquitted by this Court on the basis of compromise arrived at between the parties vide order dated 16.04.2009.

For the appointment of Lambardar, who is Headman of the Village, the relevant parameters to be taken into consideration as per Rule 15 of the Punjab Land Revenue Rules are as follows:-

- “15. In the first appointment of headmen, regard shall be had among other matters to-*
- (a) his hereditary claims;*
 - (b) The property in the estate possessed by the candidate to secure the recovery of land revenue;*
 - (c). service rendered to the state by himself or by his family;*
 - (d) his personal influence, character, ability and freedom from indebtedness;***
 - (e) the strength and importance of the community from which selection of a headman is to be made;*
 - (f) service rendered by himself or by his family in the national movements to secure freedom of India.*

As per Rule 15(c) of the Act, the personal influence, character, ability and freedom from indebtedness is of prime importance. The contention of learned counsel for the petitioner before this Court is that the petitioner though faced criminal prosecution in the FIR as mentioned above, however, in the revision filed, he has been acquitted and thus, he carries no stigma against him. However, there is no gainsaying that the charges against the petitioner

were found to have been proved before the trial Court and thus, he was convicted and sentenced for those offences by the trial Court. However, during the pendency of the criminal revision, the parties entered into the compromise and on the basis of same, the conviction order was quashed. The Lambardar of the Village is the Headman and he should be a man of repute and character. The issue involved in the case is not whether the petitioner was eligible for consideration for the appointment to the post of Lambardar after his acquittal but the issue is whether he is the most suitable candidate among all the candidates who are in the fray for the appointment to the post of Lambardar. It is an admitted fact that respondent No.4 though was elder in age than the petitioner but he had a spotless character as per the record available. Thus, the choice of the Collector was between the persons where one had been found to be convicted, though later on, acquitted and on the other hand, a person who had an unblemished record. In view of the other parameters as enumerated in Rule 15, the merits of both the candidates on other parameters except that of Rule 15(c) were almost same.

However, in the considered opinion of this Court, if the reputation and character of a person is found to be doubtful, other candidate in the race, who has an unblemished record would be on a strong footing. Even if a candidate is found younger in age, more qualified and having enough holdings, if his character and reputation is not free from doubts, these other parameters automatically lose the significance. In the case in hand, due to the conviction and sentence imposed upon the petitioner by the JMFC, the petitioner cannot be held to be of clean or unblemished character although his conviction and sentence was quashed by the Higher Court in the Revision and as such he cannot be held to be a suitable than the candidate having an

unblemished record. The provision of Rule 16 of the Punjab Land Revenue Rules, which deal with the dismissal of Headman is also relevant for the appreciation of the controversy involved and same reads as under:

Rule 16 are as follows:-

*16(i) A headman **shall** be dismissed when-*

(a) he is sentenced to imprisonment for one year or upwards or to any heavier sentence.

Thus, it is evident from the appreciation of the above Rule that if the Headman after his appointment is sentenced to the imprisonment for one year or upward, he shall be mandatorily dismissed. Though the petitioner is acquitted on the basis of compromise, this Court still finds perversity in the order passed by the Collector in his appointment. The Collector is the prime authority for the appointment of the Lambardar and he is in a better situation to assess the candidature of all the candidates in fray taking into consideration their overall merits and demerits. But the Collector and the Commissioner did not deal with the same as per the mandate of the law.

Learned counsel for respondent No.4 has relied upon the judgments titled as **Jog Dhian Vs. Financial Commissioner, Haryana and others**, 2005(1) RCR (Civil) 658 wherein it has been held that on acquittal of accused in a criminal charge, though by giving benefit of doubt, he is presumed to be innocent, but the stigma on him is not completely washed out. If, in that case, Collector chooses to appoint other candidate of equally good merit, the choice of the Collector is final; **Jatinder Singh Vs. Financial Commissioner (Appeals), Punjab and others**, 2021(1) RCR (Civil) 687 wherein it has been held that endeavour of revenue authorities should be to appoint a person of clean integrity and image; **Vijay Kumar Vs. State of**

Punjab and others, 2018(1) Law Herald 516 and **Gurdev Singh Vs. Financial Commissioner, Punjab and others**, 2021(1) Law Herald 870 wherein it has been held that every appointing authority is supposed/required to select candidates having clean antecedents and image and has to be all more cautious and vigilant while selecting candidates for public offices. Thus, this Court does not find any infirmity in the impugned order to the extent of reversing the orders passed by the Collector and the Commissioner. But the second part of the impugned orders appointing respondent No.4 as Lambardar being illegal is set aside by remanding the case to the Collector concerned for decision afresh after hearing the parties within a period of three months from the date of receipt of certified copy of this order.

In view of the above, the present petition is partly allowed on above-mentioned terms.

26.09.2023

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Whether speaking/reasoned
Whether reportable

**(RAJESH BHARDWAJ)
JUDGE**

: Yes/No
: Yes/No