

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

CWP-17188-2023

Date of decision : 24.08.2023

Harbhajan Singh

.....Petitioner

versus

Financial Commissioner (Appeals) Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Prabhjot Kaur, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the orders dated 16.01.2023 (Annexure P-5) passed by Financial Commissioner, Appeals, respondent No.1 and order dated 22.12.2020 (Annexure P-4) passed by Commissioner, Jalandhar Division, respondent No.2 and order dated 28.08.2018 (Annexure P-3) passed by Collector, respondent No.3 vide which his candidature for the post of Lambardar was rejected and respondent No.4 Gurjit Singh was appointed Lambardar of Village Pashian, Tehsil Ajnala, District Amritsar.

Adumbrated facts of the case are that on the death of earlier Lambardar of the Village Pashian, namely, Tarlok Singh on 10.03.2015, the process for appointment of new Lambardar was initiated. The *mustri munadi* was conducted and in pursuance to the same, four candidates namely, Dalbir Singh son of Bahadur Singh; Ranjit Singh son of Kamil Singh; Gurjit Singh son of Avtar Singh and Harbhajan Singh son of Ishar Singh, applied for the post of Lambardar. The Sub Divisional Magistrate,

Ajnala on scrutiny of the applications and their antecedents, recommended the name of Harbhajan Singh for appointment to the post of Lambardar. Except Harbhajan Singh no other applicant came present and thus, the Collector heard the applicant-Harbhajan Singh. On analysis of the overall record of the candidate, Harbhajan Singh, the District Collector appointed him as the Lambardar of the Village vide his order dated 22.12.2016. Aggrieved by the same, respondent No.4, Gurjit Singh filed an appeal under Section 13 of Punjab Land Revenue Act, 1887 (for short 'the Act') before the Additional Commissioner (Appeals), Jalandhar Division, Jalandhar. After hearing both the sides, learned Additional Commissioner (Appeals) found the appellant more qualified and thus, drew a conclusion for the decision afresh and thus, remanded the case to the District Collector for passing fresh order after hearing both the candidates vide order dated 30.01.2018. In pursuance to the remand by the Commissioner, learned Collector re-appreciated the merits of both the applicants i.e. petitioner and respondent No.4 and found that Gurjit Singh was of 50 years of age and was 11th pass. Besides this, he owned 128 kanals and 15 marlas of land. So far as, petitioner Harbhajan Singh is concerned, he was found to be of 70 years of age and was 7th standard pass. Besides this, he owned 64 kanals and 01 marla of land. Thus, after analyzing overall merits of both the petitioner and respondent No.4, learned Collector appointed respondent No.4 Gurjeet Singh as Lambardar of the Village vide his order dated 28.08.2018. Aggrieved by the same, petitioner an filed appeal under Section 13 of the Act before Commissioner, Jalandhar Division, Jalandhar. On hearing both the sides and perusing the record, learned Commissioner, found no merit in the

appeal filed by the petitioner and thus, dismissed the same vide impugned order dated 22.12.2020. Aggrieved by the same, the petitioner filed a revision petition under Section 16 of Punjab Land Revenue Act, 1887 before learned Financial Commissioner. Learned Financial Commissioner re-appreciated the evidence on record, heard both the sides and on finding no perversity in the impugned orders upheld the order passed by the Collector and the Commissioner and thus, dismissed the revision petition filed by the petitioner vide his impugned order dated 16.01.2023. Hence, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has contended that the respondents-authorities have failed to appreciate the *inter se* merits of the petitioner and respondent No.4 and thus, illegally appointed respondent No.4 to be the Lambardar of the Village. She has submitted that the petitioner was issued with Sanad Lambardari by the District Collector vide his order dated 22.12.2016 as there was nothing adverse against him and finding him suitable, he was duly appointed. However, the Collector and the subsequent authorities failed to appreciate the same. She has submitted that as per Rule 15 of the Punjab Land Revenue Rules, parameters to be considered are like hereditary claims; services rendered to the State; the personal influence, character, ability etc. and the services rendered by the candidate or his family in the national movements. She submits that the petitioner belongs to the family of earlier Lambardar namely, Tarlok Singh, as he is his nephew. She has submitted that the petitioner is more mature for performing the duty of Lambardar and son of the petitioner is employed in CRPF. Besides this, petitioner was twice elected as member of Panchayat. She submits that petitioner is the Ex-

President of the Milk Society and thus, has enough experience for discharging the duty of Lambardar. She has submitted that the impugned orders passed are totally cryptic and are against the evidence on record and hence, being perverse, deserves to be *set aside*.

I have heard counsel for the petitioner and perused the record.

Evidently, the process of appointment of Lambardar initiated in the Village on the death of earlier Lambardar of the Village Pashian, namely, Tarlok Singh on 10.03.2015. The *mustri munadi* was conducted, the applications were invited and four candidates applied for the post. However, as only Harbhajan Singh came present, he was the only candidate remaining in the fray and hence, he was appointed as Lambardar by the Collector. However, in the appeal filed, the case was remanded by the Commissioner for decision afresh. Thereafter, learned Collector re-appreciated the merits of both the candidates and found that respondent No.4 who being 50 years of age is much younger than the petitioner. Besides this, he was 11th pass and owned 128 kanals and 15 marlas of land. Petitioner was found to be 70 years of age and only 7th class pass and had 64 kanals and 01 marla of land. Needless to say that as per the settled law, candidate who is younger in age should be preferred as held in *Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757.* Besides this, though in the earlier round of appointment, the Collector appointed the petitioner however, this fact cannot be ignored that in the four candidates who had applied, however, only the petitioner remained in fray and thus, there was no other choice before the Collector except to appoint the petitioner which he did but the Commissioner rightly

remanded the case for a decision afresh. There is nothing on record to show that the petitioner ever challenged the order dated 30.01.2018 passed by the Additional Commissioner whereby the case was remanded for decision afresh. Thus, there was no illegality in the order passed by the Collector while deciding the case afresh vide which respondent No.4 was appointed as Lambardar. In appeal, learned Commissioner found no illegality in the order of the Collector and thus, dismissed the same, which was also upheld by learned Financial Commissioner in the revision. There is no gainsaying that the choice of Collector should not be interfered in a cavalier manner unless the same suffers from any perversity. The *inter se* merits of petitioner and respondent No.4 when compared makes it clear that respondent No.4 is more qualified, younger in age, having more landed property than the petitioner and as such he was rightly selected for appointment of Lambardar. As per the law settled, the choice of the Collector cannot be interfered in a casual manner unless the same suffers from any patent illegality.

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, this Court does not find any perversity in the orders passed by the Collector and subsequent authorities in the appeal and revision. Accordingly, the writ petition being devoid of any merits is hereby dismissed.

24.08.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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