

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

CWP-18428-2023

Date of Decision: 23.08.2023

Kewal Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Bhavna Kapur, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of the order dated 23.1.2023 (Annexure P-1) passed by respondent No.1-Financial Commissioner (Appeals) Punjab, and order dated 04.09.2019 (Annexure P-2) passed by the Commissioner, Jalandhar Division, Jalandhar, whereby the matter is remanded back to the learned District Collector, Kapurthala for a fresh decision with regard to the appointment of Lambardar.

It has been contended by learned counsel for the petitioner that on the death of Karnail Singh, Lambardar of village Ramidi, Tehsil and District Kapurthala, proceedings to fill the post of new Lambardar were initiated and *Mushtari Munadi* was conducted in the village for inviting applications from the interested applicants. She submits that in pursuant to the same, 6 applications for the post of Lambardar were received from the candidates, namely, Bhagwant Singh, Balwinder Singh, Davinder Singh, Kewal Singh (petitioner), Santokh Singh (respondent No.4) and Gurdev Singh. She submits that the credential/character of the candidates were verified and reports were prepared. As per verification, the petitioner was found to be 71 years of age, matriculate by qualification and found to be owner of 42 kanlas of land in the village, whereas, respondent No.4 was

found to be 50 years of age, matriculate and owner of 24 kanals of land. She submits that out of all the six candidates, though Naib Tehsildar, Dhilwan and SDM recommended the name of respondent No.4 for the post of Lambardar, but on the comparison of inter-se merits of both the candidates, the learned Collector appointed Kewal Singh i.e. the petitioner as a new Lambardar of the village vide order dated 20.08.2015 (Annexure P-3). She submits that aggrieved by the same, respondent No.4 filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the Commissioner, Jalandhar Division, Jalandhar. She submits that after hearing both the sides, the learned Commissioner accepted the appeal filed by respondent No.4 and thus, remanded the case for decision afresh vide impugned order dated 04.09.2019 (Annexur P-2). She submits that thereafter, the petitioner being aggrieved filed an appeal before the learned Financial Commissioner, who finding no merit dismissed the same vide order dated 23.01.2023 (Annexure P-1). Learned counsel for the petitioner has vehemently contended that the learned Collector had rightly appointed the petitioner as Lambardar of the village. She submits that the petitioner was 71 years of age, matriculate and owner of 42 kanals of land, whereas, respondent No.4 though was 50 years of age, matriculate, but owned only 24 kanals of land. She submits that the learned Commissioner totally overlooked the evidence on record and the law settled that the view taken by the Collector cannot be interfered with unless and until it suffers from a patent illegality and there being no patent illegality or perversity in the order passed by the Collector, the view taken by the Commissioner in remanding back the matter for decision afresh, was totally unsustainable in the eyes of law. She submits that similarly the view taken by the learned

Financial Commissioner in the appeal is also unsustainable in the eyes of law as the learned Financial Commissioner also drawn wrong conclusion in not appreciating the law settled. She submits that well reasoned order passed by the Collector was set aside by the appellate and revisional authorities only on the issue that the petitioner was elder in age, however, as per statutory provisions and the law settled, there is no bar in appointing the candidate who is 70 years of age as Lambardar. She submits that besides this the petitioner owned more land than respondent No.4. She further submits that father of the petitioner had served in British Army and laid down his life while fighting in the World War. She has relied upon the judgments of this Court in Rati Ram vs. Financial Commissioner, Haryana and others, Law Finder Doc Id # 410618; Rajwant Kaur vs. Financial Commissioner (Animal Husbandry), Punjab and others, Law Finder Doc Id # 773355; Lakhwinder Singh vs. State of Haryana and others, in CWP-17476-2012 decided on 18.09.2015 and Kuldip Singh vs. Financial Commissioner (Appeal-II), Punjab, Chandigarh and others, Law Finder Doc Id # 633869 and has submitted that the impugned orders being totally perverse, deserve to be set aside.

Heard.

It is evident from the facts and circumstances of the case that the process for the appointment of Lambardar was initiated on the death of Karnail Singh, earlier Lambardar of the village. After receipt of the applications from the interested candidates, name of respondent No.4 was recommended by the Naib Tehsildar and the SDM and finally the petitioner was appointed by the Collector vide order dated 20.08.2015. However, in the appeal filed by respondent No.4, the learned Commissioner remanded

the case for decision afresh, which was upheld by the learned Financial Commissioner in the appeal filed by the petitioner. It is evident that petitioner was found to be 71 years of age, matriculate and owner of 42 kanals of land, whereas, respondent No.4 was found to be 50 years of age, matriculate and having 24 kanals of land. From which it is obvious that the petitioner was about 21 years elder than respondent No.4.

Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757 has held that for the appointment of Lambardar, age of the candidate is a relevant factor. So far as the land holding of both the petitioner and respondent No.4 is concerned, the same would be of no legal consequences, as holding of land is required to pay revenue dues and admittedly respondent No.4 is owner of 24 kanals of land in the village and the same would not have any adverse effect on his candidature. There is no gainsaying that as per law settled, the view taken by the learned Collector in appointing the Lambardar should not be ordinarily interfered with unless and until, the same suffers from a patent illegality or perversity. However, on perusal of the facts and circumstances of the case in the light of the law settled, it is evident that respondent No.4 was much more younger than the petitioner, but he was ignored by the learned Collector. The appellate authority finding the order passed by the Collector perverse, accepted the appeal filed by respondent No.4 and thus, remanded the case for decision afresh. The view taken by the learned Commissioner was also upheld by the learned Financial Commissioner as well.

There is no dispute regarding the law settled in various judgments cited by learned counsel for the petitioner, however, the same are

distinguishable on the facts and circumstances of the case in hand.

This Court is of the considered opinion that the view taken by the learned Collector in ignoring the merits of respondent No.4 suffers from patent illegality and thus, it requires decision afresh. This Court does not find any infirmity in the orders passed by the appellate and revisions authorities in passing the impugned orders and the same are upheld and the present petition being devoid of any merit is hereby dismissed.

However, the Collector is directed to decide the case afresh after hearing both the sides expeditiously preferably within a period of three months from the date of receipt of certified copy of this order.

23.08.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No