116 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17266-2023
Date of decision: 13.09.2023

Narinder Singh … Petitioner

Versus

The Financial Commissioner and others … Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Beant Singh Seemar, Advocate, for the petitioner.

Mr. C.K. Singla, Advocate for
Ms. Tarranum Madaan, Advocate, for respondent No.4.

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RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 29.05.2023 (Annexure P-5) passed by learned Financial Commissioner (Appeals), Punjab, whereby, revision filed by against the order dated 31.03.2016 (Annexure P-3) passed by the Commissioner, Patiala upholding the appointment order dated 20.01.2015 (Annexure P-1) passed by Collector, Ludhiana appointing respondent No.4 as Lambardar of village Rangian, Tehsil and District Ludhiana, has been dismissed.

Adumbrated facts of the case are that on the death of Gurdev Singh, earlier Lambardar of village Rangian, Tehsil and District Ludhiana, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated and necessary approval was granted for the same. In pursuance to the same, *mushtari munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the proclamation made, two applications were received from Narinder Singh (petitioner) and Narpinder Singh (respondent No.4). Their conduct and character was got verified. Naib Tehsildar Dehlon, after hearing both the candidates, recommended the name of Narpinder Singh (respondent No.4) to be the Lambardar of the village. Narpinder Singh was found to be 50 years of age and 9th class pass. Besides this, he owned 1 Killa of land. Before the Collector neither Narinder Singh nor his counsel came present for pursuing the case. Thus, the Collector on appreciation of overall merits of respondent No.4-Narpinder Singh, appointed him as Lambardar of village vide order dated 20.01.2015 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal under Section 13 of the Punjab Land Revenue Act before the Commissioner, Patiala Division, Patiala. After hearing both the sides, the Commissioner dismissed the appeal filed by the petitioner vide order dated 31.03.2016 (Annexure P-3). Again aggrieved by the same, the petitioner filed revision petition under Section 16 of the Punjab Land Revenue Act before the learned Financial Commissioner, however, after hearing both the sides, the learned Financial Commissioner dismissed the same vide his order dated 29.05.2023 (Annexure P-5). Thus all the three authorities have given concurrent finding against the petitioner. Hence, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has contended that after *mushtari munadi,* the petitioner duly applied for the post of Lambardar and he had been appearing before the respondent-authorities. He submits that the impugned orders passed are totally cryptic and non-speaking. He has submitted that the petitioner was intentionally not given any opportunity of arguing his case and thus, was wrongly shown to be absent before the Collector. He has submitted that the learned Financial Commissioner has wrongly observed that the petitioner was involved in FIR No.95 dated 23.06.2014 registered under Sections 363, 366-A, 376 IPC as the petitioner already stood acquitted in the said FIR vide order dated 09.12.2022. He has submitted that respondent No.4

was court martialed from Army and hence, he is not a man of clean antecedents. He has submitted that the petitioner had also served in Army and thus, rendered service to the nation. He has further submitted that as per the mandate of Rule 15 of Punjab Land Revenue Rules, the petitioner was the most suitable candidate to be appointed for the post of Lambardar and thus, the view taken by the authorities below is totally against the evidence on record and the law settled. He has submitted that the impugned orders being perverse in nature deserve to be set aside by appointing the petitioner as Lambardar of the village.

Learned counsel for respondent No.4 has submitted that in response to *mushatri munadi* made for appointment of Lambardar, the petitioner and respondent No.4 applied for the same and after verification of their character Naib Tehsildar, recommended the name of respondent no.4 as Lambardar and thereafter, the Collector appreciated the merits of respondent no.4 as despite opportunities, the petitioner or his counsel had failed to appear before the Collector. He has submitted that the Collector rightly appointed respondent No.4 Narpinder Singh as the petitioner failed to plead his case before him rather he chose not to appear before the Collector. He has further submitted that the appeal and revision filed by the petitioner were rightly declined by the Appellate and revisional authorities and thus, the present petition is also liable to be dismissed.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that process for the appointment of Lambardar was initiated and *Mushatri Munadi* was conducted in the village. In pursuance to the same, both the petitioner and respondent No.4 applied for the post. Their character verification was got done. As evident from the record, the petitioner did not come present before the Collector and thus, the Collector finding respondent No.4-Narpinder Singh being suitable appointed him as Lambardar of the village. Narinder Singh-petitioner filed his appeal before the Commissioner, which was dismissed and his revision before the Financial Commissioner was also dismissed. It has come on the record that the Financial Commissioner while dismissing the revision filed by the petitioner has observed that the petitioner had not disclosed about the FIR No.95 dated 23.06.2014 under Sections 363, 366-A, 376 IPC registered against him. It was further observed that the petitioner is involved in another FIR No.82, dated 25.07.2014, registered under Sections 399, 402 IPC and Section 25 of Arms Act. It is also observed by the learned Financial Commissioner that FIR No.80 of 2014 under Section 394, 596, 34 IPC and Sections 25, 54, 59 of Arms Act was registered against son of the petitioner, namely, Chamkaur Singh and another son of the petitioner, namely, Nirvair Singh was declared proclaimed offender by the JMIC, Ludhiana in FIR No.95 dated 23.06.2014 vide order dated 02.12.2020. Thus, it is found that the petitioner and his sons had faced prosecution in criminal cases. Finding no force in the revision petition, the Financial Commissioner dismissed the same by upholding the orders passed by both the authorities below. 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."

As per the law settled, there is no gainsaying that the choice of the Collector should not be disturbed in a cavalier manner. It is the Collector, who not only appreciates the record of the candidates but also personally interacts with them.

All the three subordinate authorities have taken consistent view and thus, order passed by the Collector is found to be suffering from no perversity. This Court in Hakam Singh vs. Financial Commissioner (Revenue), Punjab and others, 2016(4) RCR (Civil) 335 while dealing with the same question has held as under:-

> "3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld."

The same view was taken by the Hon'ble Division Bench of this Court in Ravinder Singh vs. Financial Commissioner (Revenue), Punjab Chandigarh and others, 2012(68) RCR (Civil) 288.

Thus, in view of the law settled, this Court does not find any merit in the present petition and thus, the same being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

13.09.2023
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No