

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

**CWP No.4241 of 2017
Reserved on: 16.11.2023
Date of Decision: 28.11.2023**

Sohan Singh

..... Petitioner

Versus

**The Financial Commissioner, Revenue,
Punjab and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jaideep Verma, Advocate
for the petitioner.

Mr. Alankar Narula, AAG, Punjab.

Mr. Madan Lal Saini, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for setting aside the order dated 05.10.2016 (Annexure P-11) passed by respondent No.1, order dated 05.02.2016 (Annexure P-9) passed by respondent No.2 and order dated 04.07.2014 (Annexure P-8) passed by respondent No.3 being illegal and perverse as they appointed a person who is having criminal background (Annexure P-7) and he claims educational qualification based upon matriculation certificate issued by institution which is declared fake by this Court. Further prayer has been made for staying the operation of

orders dated 05.10.2016 (Annexure P-11), 05.02.2016 (Annexure P-9) and 04.07.2014 (Annexure P-8) during the pendency of the present writ petition.

Adumbrated facts of the case are that the post of Lambardar in the village Savhara, Tehsil Anandpur Sahib, District Rupnagar fell vacant due to the death of earlier Lambardar, namely Amar Singh on 27.11.2010. In order to fill the post, necessary approval was granted on 01.07.2011. Mustri munadi was conducted in the village for inviting the applications from the eligible candidates. In pursuance to the same, 14 applications were received. Character verification of all the candidates was conducted. Thereafter 07 candidates remain in the fray. Candidates were heard and their merits were evaluated. The Naib Tehsildar, Nurpur Bedi recommended the name of Sohan Singh i.e. the petitioner for the appointment of Lambardar vide his report dated 08.01.2013. However, the Tehsildar, Anandpur Sahib vide order dated 14.03.2013 remanded the matter back to the Naib Tehsildar and then name of Sohan Singh i.e. the petitioner was again recommended by him vide his order dated 20.09.2013. The Tehsildar, Anandpur Sahib heard the candidates and not agreeing with the report of the Naib Tehsildar. Thus, recommended the name of Bhajan Lal i.e. respondent No.4 to the Sub Divisional Magistrate, Anandpur Sahib with his report dated 28.10.2013. The Sub Divisional Magistrate, Anandpur Sahib on hearing the candidates, agreed with the report of the Tehsildar and made the recommendation of name of Bhajan Lal i.e. respondent No.4 to the District Collector. The District Collector, on

considering the merits and demerits of both the candidates, found Bhajan Lal to be 36 years of age and matric by qualification. Besides this, he owned 4½ acres of agricultural land. It was argued before him by his counsel that he was a member of Aksh Devta Brahm Sagar Temple and made contribution to solemnize the marriages of poor girls. He also participated in blood donation camps and eye camps. He was also found to be involved in FIR No.28, dated 04.04.2013, under Sections 341, 283 IPC, registered at Police Station Nurpur Bedi. On the other hand, the petitioner, Sohan Singh was found to be 30 years of age and 10+2, B.Ed pass by qualification. Besides this, he owned 20 acres of agricultural land. On comparing the *inter se* merits of both the candidates, the District Collector found respondent No.4, namely Bhajan Lal to be more suitable candidate and thus, appointed him as the Lambardar of the village vide his order dated 04.07.2014. Aggrieved by the same, the petitioner filed an appeal before the Commissioner, Rupnagar. However, the learned Commissioner finding no merit in the appeal, dismissed the same vide his order dated 05.02.2016. Aggrieved by this order, the petitioner further filed the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner. However, the learned Financial Commissioner also agreed with the view taken by the District Collector, which was further upheld by the Commissioner and thus, dismissed the revision petition filed vide his order dated 05.10.2016. Hence, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has submitted before this Court that the *inter se* merits of both the candidates are as follows:

Candidate	Education	Age	Land	Criminal Background
Sohan Singh (Petitioner)	Bachelor of Physical Education (BP Ed)	30 years	20 acres	Clean record
Bhajan Lal (Respondent No.4)	10 th Council of Secondary Education, Mohali (fake institution declared by this Hon’ble Court in CWP No.17443 of 2010, CWP No.3651 of 2009)	36 years	4½ acres	FIR No.28, dated 04.04.2013 under Sections 341, 283 IPC, registered at Police Station Nurpur Bedi, District Rupnagar.

He submits that on perusal of the *inter se* merits of both the candidates, it is apparent that the petitioner was younger in age than respondent No.4. Besides this, he was more qualified than respondent No.4. He submits that the petitioner owned more land than respondent No.4. He has vehemently contended that at the time of filing the application, respondent No.4 admittedly was involved in FIR No.28 dated 04.04.2023. He has further contended that respondent No.4 claimed himself as a matriculate, which has been duly relied upon by the appointing authority. He submits that after his appointment, the petitioner found that matriculation certificate produced by respondent No.4 was not from a recognized Institute. Thus, he could not be considered as matric qualified on the basis of the certificate produced by him from the Institute, namely

Council of Secondary Education, Mohali. He submits that this Court in **CWP No.17443 of 2010** and **CWP No.3651 of 2009** has not recognized the certificate issued by this Institute. It is submitted by him that the matriculation certificate issued by the fake institute has been relied upon by the Appointing Authority by holding respondent No.4 to be more meritorious than the petitioner which is totally unsustainable in the eyes of law. He submits that the petitioner was younger in age and more qualified than respondent No.4 and had no criminal antecedents against him, and hence, the appointment of respondent No.4 is totally vitiated. Learned counsel for the petitioner has argued before this Court that at the time of passing of the appointment order by the District Collector, it was not in his knowledge that the matriculation certificate produced by respondent No.4 was not from a recognized Institute. Thus, he could not raise this issue at that time. However, at the time of filing his appeal before the Commissioner after verification, he raised this issue before the Appellate Court. He submits that the contention raised by learned counsel for the petitioner was neither appreciated by the Appellate Authority nor by the Revisional Authority. However, the same was ignored in a casual manner. He has vehemently contended that respondent No.4 had submitted this certificate at the time of applying for his appointment as Lambardar. He has also invited the attention of this Court to the impugned orders wherein the Appointing, Appellate & Revisional Authorities have taken into consideration the matriculation certificate filed by respondent No.4, which has been duly relied upon by them. Thus, the order passed by the District

Collector is totally perverse. He submits that both the Appellate and Revisional Authorities have also miserably failed in appreciating the submissions made by the petitioner and thus, the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

Per contra, learned counsel for respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that there is no substantial difference in age of both the candidates. He has submitted that though respondent No.4 was falsely implicated in FIR No.28, dated 04.04.2013, however, on investigation, cancellation report was filed by the Investigating Agencies before the Magistrate on 10.05.2014 i.e. prior to the appointment of respondent No.4 by the District Collector vide his order dated 04.07.2014. He has submitted that cancellation report filed was finally accepted by the Court on 12.01.2015. Thus, no stigma lies against respondent No.4. He has further submitted that respondent No.4 is matric pass by qualification and there are no findings holding the Institute from where respondent No.4 has completed his matriculation to be a fake institute. He submits that even otherwise respondent No.4 has not been appointed only on the basis of his qualification but the Collector found him meritorious on the overall comparison of *inter se* merits of both the candidates. He further submits that as per the law settled, the order passed by the District Collector can be interfered only in case there is any perversity found in the same. However, in the appointment of respondent No.4, order of the Collector suffers from no perversity and thus, the impugned orders passed being totally as per law

settled, deserve to be upheld. He has submitted that 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 learned counsel for the parties and perusing the record, it is evident that on comparison of the *inter se* merits of both the candidates, the petitioner was younger in age and more qualified than respondent No.4. Though the cancellation report had been filed by the Investigating Agencies, however, this was an admitted fact that an FIR was registered against respondent No.4.

However, this Court cannot ignore that had this fact being in the knowledge of the Appointing Authority at the initial stage, the same could not have been ignored. If the certificate produced before the Appointing Authority is from a fake Institute, then the same would definitely have the bearing on the *inter se* merits of both the candidates. However, the Appellate as well as Revisional Authorities have also not appreciated the contentions raised by learned counsel for the petitioner.

Thus, in the considered opinion of this Court, the order of the District Collector, which is upheld by both the Appellate and Revisional Authorities, suffers from perversity. Hence, the impugned orders are set aside. The case is remanded back to the District Collector for deciding the case afresh by taking into consideration the contentions raised by learned counsel for the petitioner. However, the learned District Collector is directed to decide the case afresh on hearing both the sides expeditiously in

accordance with law preferably within a period of six months from the date of receipt of certified copy of this order.

The petition is allowed in the above mentioned terms.

(RAJESH BHARDWAJ)
JUDGE

28.11.2023

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