

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

CWP-17788-2023

Date of decision : 17.08.2023

Krishan Singh

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sanyam Khetarpal, Advocate
for the petitioner.

Mr. Amit Kumar, Advocate
for respondent No.5.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 15.02.2023 passed by learned Financial Commissioner, Haryana at Chandigarh in ROR No.296 of 2019 vide which the order passed by learned Commissioner Gurugram for appointment of petitioner as Lambardar has been *set aside* which is totally wrong, illegal, arbitrary and against the principle of natural justice.

Succinctly, the facts of the case are that after the death of Lambardar Sh. Daniram son of Sh. Sanwalia of Village Hajipur on 08.01.2012, post of Lambardar fell vacant and thus, the process for the appointment of new Lambardar was initiated. As a result, *mustri munadi* was conducted in the village for inviting the applications from the interested candidates. In pursuance to the same, two candidates appeared namely, Krishan Singh (petitioner) son of Late Sh. Dani Singh and Mr. Mool Chand (respondent No.5) son of Mr. Daulatram. Their character verification was got done and on comparison of their *inter se* merits, it

was found that Krishan Singh was 51 years of age and had studied upto 10th class whereas, respondent No.5-Mool Chand was 43 years of age and had studied upto 10th class. Name of respondent No.5 was recommended by 37 persons of village. The Collector on analysis of overall merits of both the candidates, appointed respondent No.5-Mool Chand as Lambardar of the Village vide his order dated 04.10.2016. Petitioner being aggrieved of the said order, filed an appeal against the same before the learned Commissioner, Gurugram. However, after hearing counsel for the parties, learned Commissioner accepted the appeal filed by the petitioner and thus, appointed petitioner-Krishan Singh as Lambardar of the Village vide his order dated 06.12.2018. Aggrieved by this order, respondent No.5 challenged the same by way of filing the revision petition before learned Financial Commissioner. Learned Financial Commissioner on hearing counsel for both the sides and perusing the record, accepted the revision petition filed by respondent No.5 vide order dated 15.02.2023 and thus, *set aside* the order dated 06.12.2018 passed by the Commissioner in appeal. Thus, the Financial Commissioner had upheld the order passed by the learned Collector. Hence, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that on the death of earlier Lambardar, petitioner applied for the post of Lambardar. He submits that the petitioner and respondent No.5 were in the fray and on comparison of their *inter se* merits, it is apparent that the petitioner was 51 years of age and had educated upto 10th class. Besides this, he had got four cases of family planning done. He had 4½ acres of agricultural land in the village. On the other hand, respondent No.5 who

was 43 years of age had the qualification of 10th Class. He was found to have actively participated in the social work and he owned 4½ acres of cultivable land in the village. It is submitted that the petitioner was more matured than respondent No.5 and he owned more land than respondent No.5. It is submitted that learned Collector had ignored the merits of the petitioner and there was a patent illegality in the appointment of respondent No.5 made by the Collector. He submits that learned Commissioner rightly appreciated the facts and circumstances of the case in the light of the law settled and thus, rightly *set aside* the order passed by the Collector by appointing the petitioner as Lambardar. He submits that in the revision filed by respondent No.5 before the Financial Commissioner, learned Financial Commissioner has miserably failed in appreciating the evidence on record and the law settled and thus, has illegally *set aside* the well reasoned order passed by the Commissioner and thus, has illegally upheld the order of the Collector which was patently illegal. He submits that the petitioner had ancestral connection to the position of Lambardar but the Collector failed to appreciate the same. Besides this, petitioner actively participated in the National Programme and thus, he was the most suitable candidate for the appointment but learned Collector and learned Financial Commissioner failed to appreciate the same. He submits that the order passed by the Collector being found to be suffering from patent illegality, the same can be reversed by the Appellate Authority which was rightly done by learned Commissioner however, learned Financial Commissioner has totally failed to appreciate the same and thus, has illegally accepted the revision filed by respondent No.5 by upholding the order passed by the Collector.

He submits that the impugned order being against the law settled, deserves to be *set aside*.

Learned counsel for respondent No.5 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that on the death of earlier Lambardar namely, Dani Ram, when the applications were invited, petitioner and respondent No.5 applied for the said post. He has submitted that on comparison of the *inter se* merits of both the petitioner and respondent No.5, respondent No.5 was found to be younger in age and more energetic. Besides this, he was 10th pass and actively participated in the social activities. He has submitted that respondent No.5 was found to be more meritorious candidate and thus, he was rightly appointed by the Collector. It is submitted that learned Commissioner had miserably failed to appreciate the evidence on record and thus, illegally accepted the appeal filed by the petitioner. He submits that the view taken by the Commissioner was totally unsustainable in the eyes of law. He not only *set aside* the well reasoned order passed by the Collector but also appointed the petitioner as the Lambardar which was totally against the settled proposition of law. He submits that learned Financial Commissioner has rightly appreciated the evidence on record and has passed the well reasoned order on the basis of the law settled and thus, the order passed by the Commissioner which was totally unsustainable in the eyes of law, was rightly *set aside* by upholding the order passed by the learned Collector. He submits that as per the settled proposition of law by the Hon'ble Supreme Court in the judgment titled as *Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757* said that the candidate who is younger in age should have been given the preference

but the learned Commissioner failed to appreciate the same. He submits that the petition being devoid of any merits is liable to be dismissed.

This Court has heard counsel for the parties and perused the record. As is evident from the facts and circumstances of the case that on death of earlier Lambardar, Dani Ram, process for filling up the post of Lambardar was initiated and thus, *mustri munadi* was got conducted. In pursuance to the same, two candidates namely, Krishan Singh (petitioner) son of Late Sh. Dani Singh and Mr. Mool Chand (respondent No.5) son of Mr. Daulatram also applied for the said post and on comparison of their *inter se* merits, it was found that respondent No.5 was younger in age and had no criminal antecedents. Besides this, he actively participated in the social activities and as such the Collector appointed respondent No.5 as a Lambardar of Village.

As per settled proposition of law by the Hon'ble Supreme Court in the judgment titled as ***Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757*** a the candidate who is younger in age should have been given the preference.

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.

Learned Commissioner had set aside the order passed by the Collector and the same was further *set aside* by the Financial Commissioner vide impugned order dated 15.02.2023. The opinion of the Court fortified from the judgment of Hon'ble the Supreme Court wherein it is held that the view taken by the Collector should not be interfered in a cavalier manner. In the facts and circumstances of the case and the law settled, this Court does not find any perversity or infirmity in the order passed by the Collector and affirmed by the Financial Commissioner in revision and thus, the petition being devoid of any merits is hereby dismissed.

17.08.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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