

118 THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.17944 of 2023 (O&M)

Date of Decision: 19.10.2023

Joginder Singh

..... Petitioner

Versus

Financial Commissioner (Revenue), Punjab
and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Paras Jagga, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

CM-17430-CWP-2023

Present application has been filed for placing on record the order dated 09.06.2011 passed by Assistant Collector Ist Grade, Patiala as Annexure P-7.

For the reasons recorded in the application, the same is allowed and order dated 09.06.2011 passed by Assistant Collector Ist Grade, Patiala is ordered to be taken on record as Annexure P-7.

CWP-17944-2023

Present writ petition has been filed for issuance of a writ in the nature of certiorari for quashing the impugned order dated 17.11.2022 (Annexure P-5) passed by respondent No.1 i.e. Financial Commissioner (Revenue), Punjab as well as order dated 12.02.2018 (Annexure P-3)

passed by respondent No.1 as well as order dated 27.09.2011 (Annexure P-1) passed by the learned Collector-cum-Deputy Commissioner, Patiala District Patiala respectively being illegal, perverse and contrary to the settled principles of law as well as the facts proved on record. Further prayer has been made that the petitioner may kindly be appointed as Lambardar of the village Tulewal, Tehsil & District Patiala in place of respondent No.3 i.e. Daljit Singh, who has been wrongly and arbitrarily appointed as the same by the orders passed by respondents No.1 and 2 and for staying the operation of impugned orders (Annexure P-5, P-3, P-1) as passed by the Revenue Officers.

Adumbrated facts of the case are that on the death of earlier Lambardar, namely, Sant Singh of village Tullewal, Tehsil & District Patiala, post of Lambardar fell vacant in the village. Hence, the process for appointment of new Lambardar was initiated and the District Collector, Patiala vide his order dated 23.12.2009 granted the sanction for filling up the vacant post. Proclamation was made in the village for inviting the applications from interested candidates. In response to the same, Joginder Singh i.e. the petitioner and Daljit Singh i.e. respondent No.3 filed their applications for the appointment to the post of Lambardar. Thereafter, character verification of both the candidates were got done and their *inter se* merits were evaluated. Joginder Singh i.e. the petitioner was found to be 51 years of age and 5th class pass by qualification. Besides this, Joginder Singh was the son of deceased Lambardar. On the other hand, Daljit Singh i.e. respondent No.3 was found to be 41 years of age and

matric by qualification. The learned District Collector evaluated the merits and demerits of both the candidates and thus, found Daljit Singh, i.e. respondent No.3 to be more meritorious & suitable and thus, appointed him as the Lambardar of village vide his order dated 27.09.2011. Aggrieved by the same, the petitioner challenged the same by way of filing an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the learned Divisional Commissioner, Patiala Division, Patiala. On hearing both the sides and perusing the record, the Divisional Commissioner found the order passed by the Collector not sustainable in the eyes of law and thus, set aside the same by appointing the petitioner as the Lambardar of the village vide his order dated 12.09.2013. Aggrieved by the same, respondent No.3 filed the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, Punjab. On hearing both the sides, the learned Financial Commissioner set aside the order passed by the Commissioner and thus, upheld the order passed by the Collector vide his impugned order dated 12.02.2018. Petitioner, aggrieved by the order passed by the learned Financial Commissioner, filed the review application under Section 15 of the Punjab Land Revenue Act for reviewing/recalling of the order passed by the learned Financial Commissioner on 12.02.2018. The learned Financial Commissioner heard learned counsel for the petitioner but finding no scope of review in the facts and circumstances of the case dismissed the same vide his order dated 17.11.2022. Hence, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that respondent No.3 has been illegally appointed the Lambardar of the village. He submits that on the comparison of *inter se* merits, the petitioner was found to be more meritorious, however, the learned Collector has illegally appointed respondent No.3. He submits that respondent No.3 had illegally occupied the Panchayat Land and thus, he was not even eligible for consideration for his appointment as Lambardar of the village. He submits that in view of the letter dated 05.12.2018 sent by the Block Development & Panchayat Officer to the District Development & Panchayat Officer, Patiala, it is apparent that respondent No.3 had illegally occupied the Panchayat Land. He submits that the learned Commissioner had rightly accepted the appeal filed by the petitioner and thus, appointed the petitioner as Lambardar in accordance with law. However, he submits that the learned Financial Commissioner has fallen in error in not appreciating the facts and circumstances of the case and the law settled and thus, has illegally accepted the revision filed by respondent No.3. He submits that the review application filed by the petitioner has also been illegally declined by the learned Financial Commissioner which is totally against the settled principles of law. He submits that the impugned order being unsustainable in the eyes of law, deserves to be set aside.

I have heard learned counsel for the petitioner and perused the material on record.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that petitioner and respondent No.3 both applied

for the appointment of Lambardar. On their overall evaluation of merits and demerits, the learned Collector found respondent No.3 to be more suitable and thus, appointed him as the Lambardar of the village. However, the learned Commissioner has set aside the order passed by the Collector. Learned Commissioner has given more preference to the petitioner being son of the deceased Lambardar, which is totally against the settled proposition of law. Thus, the findings arrived at by the learned Commissioner do not make out any ground for describing the order passed by the Collector as perverse. Learned Financial Commissioner has rightly appreciated the facts and circumstances of the case and law settled for the appointment of Lambardar. As per the law settled, the Collector is the prime authority for the appointment of Lambardar and he is in a better situation to assess the candidature of all the candidates in fray taking into consideration their overall merits and demerits. 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**, a candidate who is younger in age should be given the preference.

Hence, in the considered opinion of this Court, this Court does not find any perversity in the impugned orders dated 27.09.2011 and 17.11.2022 passed and thus, the present petition being devoid of any merit is, hereby, dismissed.

(RAJESH BHARDWAJ)
JUDGE

19.10.2023

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