

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

CWP-3116-2018

Date of Decision: 18.08.2023

Pyare Lal

..... Petitioner

Versus

Ram Bhagat and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Ranvir S. Chauhan, Advocate, for the petitioner.
Mr. Sumit Sangwan, Advocate, for respondent No.1.
Ms. Upasana Dhawan, Assistant Advocate General, Haryana.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the order dated 22.05.2014 (Annexure P-6) passed by the Collector, Bhiwani, order dated 22.04.2015 (Annexure P-7) passed by Commissioner Hisar Division, Hisar and order dated 07.08.2017 (Annexure P-8), passed by the Financial Commissioner.

Learned counsel for the petitioner has submitted that on the death of Ramanand, earlier Lambardar of village Lamba, District Bhiwani, process for the appointment of new Lambardar (SC category) was initiated and thus, the Naib Tehsildar announced the same. He submits that *Mushtari Munadi* was conducted through Patwari Halqua and in pursuance to the same, five applications of Satya Parkash, Ram Bhagat (respondent No.1), Hazari Lal, Pyare Lal (petitioner) and Sanjay Kumar were received. Their character verification was conducted and opportunities were afforded to all the applicants to produce their evidence in support of their claim for the post. He submits that during the proceedings Satya Parkash withdrew his candidature in favour of Ram Bhagat, whereas, Sanjay and Hazari Lal withdrew their candidature in favour of Pyare Lal and thus, only two

candidates i.e. Pyare Lal (petitioner) and Ram Bhagat (respondent No.1) remained in fray for consideration for the post of Lambardar. He submits that the petitioner was 41 years of age and was B.Ed by qualification, whereas, respondent No.1, though was of 38 years of age, but was matriculate only. He has submitted that respondent No.1 was prosecuted in an FIR No.126 dated 21.07.1997, registered under Section 304-B/498-A/406 IPC, at Police Station Bond Kalan. He submits that on the comparison of the inter-se merits of both the candidates, the Collector found the petitioner to be more suitable and thus, he was appointed as Lambardar of the village vide order dated 02.07.2013 (Annexure P-1). He has submitted that respondent No.1 filed a review petition dated 05.07.2013 (Annexure P-2) before the learned Collector on the ground that though he was prosecuted in an FIR, but he was acquitted on 17.02.1998. Learned counsel for the petitioner submits that even though respondent No.1 was acquitted in the criminal proceedings, but the petitioner had no criminal background. He submits that surprisingly, the Collector, who had appointed the petitioner as Lambardar of the village vide order dated 02.07.2013 reviewed his decision in the review petition filed by respondent No.1 and thus, set aside the same by directing fresh *Munadi* to be conducted by inviting the names of the suitable candidates vide order dated 22.05.2014 (Annexure P-6). He has submitted that the petitioner being aggrieved filed an appeal before the learned Commissioner, Hisar Division, Hisar, however, the learned Commissioner failed to appreciate the contentions raised by the petitioner and the law settled and thus, rejected the appeal filed vide impugned order dated 22.04.2015 (Annexure P-7). He submits that aggrieved by orders dated 22.05.2014, 22.04.2015 and 04.08.2014 the

petitioner and respondent No.1 filed their separate revisions before the Financial Commissioner. He submits that the learned Financial Commissioner also failed to appreciate the facts and circumstances of the case and the law settled and thus, illegally rejected the same vide impugned order dated 07.08.2017 (Annexure P-8). It has been further contended that the petitioner was rightly appointed by the Collector as Lambardar of the village after comparison of inter-se merits of the petitioner and respondent No.1. He submits that the allegations pertaining to petitioner being in unauthorized possession, are totally without any basis. He submits that the review petition filed by respondent No.1 was totally based on the erroneous facts and there was no force in the same, however, the same was illegally accepted by the learned Collector by directing the initiation of fresh process for the appointment of the Lambardar by way of fresh *Munadi*. He submits that thereafter, the learned Commissioner and Financial Commissioner have also fallen in error in not appreciating the same and thus, the impugned order being unsustainable in the eyes of law, deserve to be set aside.

Learned counsel for respondent No.1 has opposed the submissions made by learned counsel for the petitioner. He has submitted that admittedly respondent No.1 was younger in age than the petitioner. He submits that though respondent No.1 was prosecuted in an FIR No.126 dated 21.07.1997, registered under Section 304-B/498-A/406 IPC, at Police Station Bond Kalan, but he was acquitted of the same on 17.02.1998 and hence, he was duly eligible for the post of Lambardar of the Village. He submits that the petitioner was found to be in unauthorized possession of the land and thus, he was totally ineligible for the appointment. He has submitted that the Collector though has accepted the review petition filed by

respondent No.1, however, he has fallen in error in not appointing him as Lambardar and thus, has illegally directed for initiating process afresh for the appointment of Lambardar by holding fresh *Munadi*. He submits that the learned Commissioner has also fallen in error in rejecting his appeal similarly learned Financial Commissioner has also illegally rejected his revision. He submits that respondent No.1 being more suitable candidate should be appointed as Lambardar of the village by dismissing the petition filed by the petitioner.

Heard.

After hearing learned counsel for the parties and perusing the record, it is is apparent that the process for appointment of Lambardar (SC category) was initiated after the death of earlier Lambardar of the Village. Resultantly, *Mushtri Munadi* was conducted and applications were invited. Five candidates applied for the post, however, finally Pyare Lal (petitioner) and Ram Bhagat (respondent No.1) remained in fray. Their character verification was conducted and on the analysis of their inter-se merits, petitioner was found to be suitable candidate and thus, he was appointed as Lambardar of the village by the learned Collector vide order dated 02.07.2013. However, on the review petition filed by respondent No.1, new grounds were brought to the notice of the Collector and thus, to meet the ends of justice, learned Collector reviewed his decision by directing to initiate process afresh by holding fresh *Munadi*, which would enable other meritorious candidates also to apply for the post, vide order dated 22.05.2014. In the appeal filed by the petitioner, the same was found to be without any merit by the learned Commissioner. Respondent No.1 also filed appeal which was also declined by upholding the decision of the Collector.

Both the petitioner and respondent No.1 filed their independent revision petitions assailing the orders of the Commissioner before the learned Financial Commissioner, however, no infirmity was found by the Financial Commissioner in the decision taken by the learned Collector of holding the process afresh. It is evident that on hearing the parties and appreciating the record, earlier decision taken by the learned Collector for the appointment of the petitioner as Lambardar was not found to be in the interest of justice, hence, fresh *Munadi* was directed to be conducted by initiating the procedure afresh. Respondent No.1 was found prosecuted in FIR No.126 dated 21.07.1997, registered under Section 304-B/498-A/406 IPC, at Police Station Bond Kalan. So far as the petitioner is concerned, allegations were made regarding his being in unauthorized possession and thus, all the authorities gave concurrent findings that initiating process afresh by conducting fresh Munadi would meet ends of justice. In the considered opinion of this Court, the impugned orders suffers from no perversity and thus, liable to be upheld. Thus, the present petition being devoid of any merit is hereby dismissed.

Keeping in view the facts and circumstances of the case, the Collector is directed to initiate the proceedings for the appointment of Lambardar afresh and conclude the same within a period of three months from the date of receipt of certified copy of this order.

18.08.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No