

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

CWP-19297-2023

Date of decision: 13.09.2023

Jora Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manjinder Singh Bhullar, Advocate, for the petitioner.

Mr. Mehtab Singh Khaira, Advocate, for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the impugned order dated 29.12.2020 (Annexure P-1), passed by District Collector, Moga and order dated 17.07.2023 (Annexure P-3) passed by Financial Commissioner (Appeals), Punjab by virtue of which the order of District Collector, Moga restored, whereby the candidate Salwinder Singh has wrongly appointed as Lambardar of village Kot Mohammad Khan (Patti Sauda), Tehsil Dharamkot District Moga and for upholding/restoring the well reasoned order dated 26.05.2022 (Annexure P-2) passed by the learned Commissioner, Ferozepur Division, Ferozepur, whereby the petitioner had been correctly appointed as Lambardar of the village.

Adumbrated fact of the case are that on the death of Sona Singh, earlier Lambardar of village Kot Mohammad Khan (Patii Sauda), Tehsil Dharamkot, District Moga, the post of Lambardar fell vacant and process for the appointment of new Lambardar was initiated. Necessary approval was granted. *Mushatri Munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the same, applications were received from Jagtar Singh, Bohar Singh, Pipal Singh,

Labhpreet Singh, Jora Singh (petitioner), Kuldeep Singh, Salwinder Singh (respondent No.4), Resham Singh, Jeet Singh and Amandeep Singh. Police verification of all the candidates were carried out and their antecedents were verified. On the appreciation of the merits of the candidates, Salwinder Singh (respondent No.4) was found to be 40 years of age and matriculate. Besides this, he owned 2½ acres of land. There was nothing adverse found against his antecedents. So far as petitioner Jora Singh is concerned, he was found to be 46 years of age and 12th standard passed. Besides this, he owned 25 kanals 13 marlas of land and nothing adverse was found about his antecedents. Inter-se merits of all the candidates were analysed by the Collector and after overall assessment of the candidates, he found Salwinder Singh-respondent No.4 to be most suitable candidate and thus, appointed him as Lambardar of village vide order dated 29.12.2020 (Annexure P-1). Aggrieved by the same, three appellants, namely, Jora Singh, Shalwinder Singh and Bohar Singh filed their independent appeals before the Commissioner, Ferozepur Division, Ferozepur. All the three appeals were heard together and after hearing all the parties, the learned Commissioner accepted the appeals and remanded the case to the District Collector for a decision afresh after considering the merits and demerits of the candidates vide order dated 26.05.2022 (Annexure P-2). Aggrieved by the same, respondent No.4 filed three revisions against three appeals before the Financial Commissioner. Learned Financial Commissioner heard all the parties and found the order passed by the Commissioner to be illegal and thus, accepted the revisions filed by respondent No.4 by upholding the order passed by the Collector dated 29.12.2020 vide impugned order dated 17.07.2023 (Annexure P-3). Hence, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently submitted that the learned Collector had fallen in error in ignoring the merits of the petitioner and hence, illegally appointed respondent No.4 as Lambardar of the Village. He submits that the petitioner was 46 years of age at the time of filing his application besides this, he was more qualified than respondent No.4 as he was 12th class pass, whereas, respondent No.4 was matriculate. He has further submitted that the petitioner also owned more land than respondent No.4, hence, appointment of respondent No.4 by the Collector was totally against the evidence on record. He has submitted that the learned Commissioner had rightly appreciated the merits of all the candidates and thus, found the decision taken by the Collector to be illegal and therefore, rightly remanded the case to the Collector for decision afresh. He has further submitted that respondent No.4 in fact failed in 10th class as he failed in both the compulsory subjects i.e. English and Punjab. Thus, he submits that the order passed by the Collector, which has been upheld by the Financial Commissioner, is totally perverse and thus, deserves to be set aside by appointing the petitioner to be the Lambardar of the Village.

Learned counsel for respondent No.4 has submitted that the Collector after appreciation of the merits of all the candidates, found respondent No.4 to be more suitable candidate and appointed him as Lamardar of the village vide order dated 29.12.2020. He has submitted that the learned Commissioner fell in error by accepting three appeals filed by the candidates, who were ignored by the Collector for the appointment of Lambardar. He has further submitted that the Financial Commissioner rightly uphold the order passed by the Collector dated 29.12.2020 vide which respondent No.4 was appointed as Lambardar. He has submitted that as per the law settled, the

choice of the Collector should not be interfered with in a cavalier manner. He has submitted that the present petition is liable to be dismissed by upholding the orders of Collector as well as the Financial Commissioner.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that process for the appointment of Lambardar was initiated and *Mushatri Munadi* was conducted in the village. Character verification of all the candidates who applied for the post, was conducted. The Collector finding respondent No.4-Salwinder Singh being suitable for the post of Lambardar appointed him as Lambardar of the village. Petitioner Jora Singh alongwith two other co-applicants filed their appeals before the Commissioner, which were accepted by remanding the case to the Collector for decision afresh. Thereafter, respondent No.4 filed three revisions against the three appeals, before the Financial Commissioner, who after hearing all the parties, upheld the order of the Collector. There is no gainsaying that the petitioner is more qualified than respondent No.4 and also owns more land than respondent No.4. However, respondent No.4 admittedly is younger in age than the petitioner. The precise submission made by counsel for the petitioner is that respondent No.4 is not even matric pass as he failed in compulsory subjects. However, minimum qualification as envisaged under the Punjab Land Revenue Act is that the candidate should be preferably middle class pass. There is nothing adverse found in the antecedents of respondent No.4 and he being younger in age was appointed as Lambardar. Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757 has held that for the appointment of Lambardar, age of the candidate is a relevant factor.

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, the Collector is the main authority for appointment of the Lambardar. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray, but also personally interacts with them. Thus, the subjective satisfaction of the Collector cannot be ignored in a cavalier manner.

The learned Commissioner has failed to appreciate the facts and circumstances of the case and the law settled and thus, has drawn wrong conclusion in passing the impugned order. Thus, in the considered opinion of this Court, there is no merit in the present petition and same being devoid of any merit, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

13.09.2023
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No