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

CWP-18932-2023

Date of Decision: August 29, 2023

Ravi Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Surinder Gaur, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for issuance of an appropriate writ in the nature of certiorari for setting aside the order dated 18.06.2021, passed by respondent No.1, Annexure P-10, order dated 02.04.2019, Annexure P-9, passed by learned Commissioner, Rohtak Division, Rohtak, vide which appeal of the petitioner has been dismissed and order dated 13.12.2018, Annexure P-7, passed by respondent No.3 in case No.143/L/2018 vide which appointment of Namberdar has been declined and Assistant Collector 2nd Grade, Loharu is directed to get fresh applications for the post of Namberdar in general category of village Gagarwas, Tehsil Loharu, District Bhiwani, which is against the law and facts of the case. It is further prayed to issue directions to respondents No.1 to 3 to appoint the petitioner as Namberdar of village Gagarwas, Tehsil Loharu, District Bhiwani and restore the order passed by learned Assistant Collector Ist Grade, Loharu because in both the rounds of litigation, learned Assistant Collector Ist Grade recommended the name of petitioner

for the post of Nambardar.

Adumbrated facts of the case are that on account of the death of earlier Nambardar Shri Subhash Chander son of Nandram, post of Nambardar fell vacant in village Gagarwas, Tehsil Loharu, District Bhiwani. Thus, the process of appointment of new Nambardar was initiated and *Mustari Munadi* was conducted for inviting the applications from eligible candidates. In pursuant to the same, five persons gave applications, whose names are as under:-

- “1. Sh.Ravi Kumar s/o Sh.Sardar Ram Jat
2. Sh.Shailender Kumar s/o Sh.Ishwar Singh Jat
3. Sh.Surender Singh s/o Sh.Birbal Singh
4. Sh.Kuldeep Singh s/o Sh.Subhash Chander Jat
5. Sh.Pardeep Kumar s/o S.Subhash Chander”

Their character verifications were obtained. On appreciation of their applications, petitioner Ravi Kumar was found to be 35 years of age and was BA pass. Besides this, he had 6 acres 5 kanal 2 marla of agricultural land in the village. So far respondent No.4-Pardeep Kumar is concerned, he was found to be 45 years of age and matric pass. Besides this, he owned 15 kanal of agricultural land in the village. He was found to be son of the deceased Nambardar and remained as a Sarbarah Nambardar of deceased Nambardar. On the overall analysis of their record and comparing the inter se merits, learned Collector, Bhiwani, appointed respondent No.4-Pardeep Kumar as Nambardar of the village vide order dated 08.11.2016 which order was challenged by the petitioner before the Commissioner, Hisar Division, Hisar. Learned Commissioner, vide its order dated 02.03.2017 remitted the case to District Collector for conducting fact finding enquiry into the eligibility of OPH Ration card by respondent and also for

reconsidering the case on the merits of both the candidates. Thereafter, the Collector appreciated the matter and vide order dated 25.01.2018 sent back to Assistant Collector Ist Grade, Loharu, for examining the point mentioned in para No.6 and giving fresh comments. Thereafter, the matter was again taken up by the Collector on 13.12.2018 and he found the character antecedents of both the petitioner and respondent No.4 suspicious and, thus in the interest of justice, he directed to conduct a fresh *Mustari Munadi* in the village after inviting applications from eligible candidates, vide his order dated 13.12.2018. Aggrieved by the same, both the petitioner and respondent No.4 filed appeal before the Divisional Commissioner, Rohtak Division, Rohtak, impugning order dated 13.12.2018. However, learned Divisional Commissioner, after hearing both the sides, dismissed both the appeals vide order dated 02.04.2019. Aggrieved by the order of the Commissioner, both the petitioner and respondent No.4 filed revision petitions under Section 16(1) of the Punjab Land Revenue Act, 1887 against the orders dated 02.04.2019 and 13.12.2018, however, the learned Financial Commissioner dismissed the same vide impugned order dated 18.06.2021 and hence, the petitioner is before this Court impugning all the three orders dated 18.06.2021, 02.04.2019 and 13.12.2018.

It has been contended by learned counsel for the petitioner that learned Collector and the appellate and revisional authorities have totally violated the established procedure of law in rejecting the candidature of the petitioner. He has submitted that petitioner is not in illegal possession of any Gram Panchayat land, as held by the authorities below. He submits that petitioner, being more meritorious, was recommended by learned Assistant

Collector Ist Grade for the post of Lambardar in general category. He has submitted that petitioner is younger and graduate as well and hence he is more suitable as compared to respondent No.4-Pardeep Kumar. However, the same has been totally overlooked by the Collector and the subsequent authorities and thus, the view taken by the respondent/authorities are totally unsustainable in the eyes of law.

I have heard counsel for the petitioner and have perused the file.

On analysis of the antecedents of both, the petitioner and respondent No.4, it has been found that petitioner, namely, Ravi Kumar and his father Sardara Ram @ Sardara Singh were found in illegal possession over the Gram Panchayat land as is evident from the demarcation report dated 03.07.2017. It has been observed by the authorities below that this report was never challenged further and thus, the findings attained the finality.

On the other hand, respondent No.4, namely, Pardeep Kumar had been found to have concealed the material facts for obtaining the OPH Ration Card wherein he has stated that he did not own any agricultural land, however, it has been found that he possessed 15 kanals of land.

Thus, the antecedents of both the candidates were found to be doubtful for the appointment of the post of Namberdar, who is the headman of the village. Reputation of the candidates to be appointed cannot be compromised and hence, the Collector is not bound to appoint the candidate, who is *prima facie* not found suitable. Thus, the view taken by the Collector, which is affirmed by the Appellate and Revisional authority, in rejecting the candidature of both the petitioner and respondent No.4 with the

direction to initiate fresh procedure for the appointment of the Namberdar does not suffer from any perversity. Petitioner and respondent No.4 would also be at liberty to participate in the fresh appointment process.

Hence, finding no infirmity in the impugned orders, the same is hereby dismissed.

August 29, 2023

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(RAJESH BHARDWAJ)

JUDGE

- 1. Whether speaking/reasoned ?
- 2. Whether reportable ?

Yes/No
Yes/No