

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

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LPA-1493-2023 (O&M)

Date of decision:18.10.2023

Rahul Kumar

... Appellant

Vs.

The Financial Commissioner, Punjab & others

... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Ramneek Vasudeva, Advocate for the appellant.

Mr. Rohit Bansal, Sr. DAG, Punjab.

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SUKHVINDER KAUR, J.

1. This Intra Court Appeal has been preferred against the order dated 27.07.2023 passed by a learned Single Judge of this Court, whereby Civil Writ Petition No.13435 of 2023 filed by the appellant has been dismissed.

2. Briefly stated, the facts of the case are that Sh. Yogesh Kumar S/o Sh. Onkar Dutt (father of the petitioner) was Lambardar of village Nangli, Tehsil Nangal, District Rupnagar. Upon his death on 15.12.2017, the post of Lambardar in the said village had fallen vacant. For filling up the said post, necessary formalities including munadi in the village were conducted by the Tehsildar. Total 9 applications were received for appointment of Lambardar of village Nangli. The antecedents of the said persons were verified from the police department and the same were found to be satisfactory. The Assistant Collector 2nd Grade-cum-Tehsildar, Nangal,

after collecting documents and information from all the candidates, recommended the name of respondent No.4 – Pardeep Kumar for the said post vide his report dated 06.01.2020. The said report was sent to the Sub Divisional Magistrate, Nangal and the Sub Divisional Magistrate agreed with the same and accordingly, recommended the name of respondent No.4 to the District Collector, Rupnagar vide his report dated 05.02.2020. Thereafter, the Collector appointed respondent No.4 as Lambardar of the village vide order dated 26.10.2020.

3. Feeling aggrieved by the order dated 26.10.2020, the appellant filed an appeal before the Commissioner, Rupnagar Division. The Commissioner while upholding the appointment of respondent No.4, dismissed the said appeal vide order dated 07.06.2022. The Financial Commissioner, Punjab also dismissed the appeal preferred before him vide order dated 02.02.2023. The appellant then knocked the doors of this Court challenging the aforesaid orders by way of filing CWP-13435-2023. A learned Single Judge of this Court through the impugned order dated 27.07.2023 affirmed the orders challenged before him and dismissed the appellant's writ petition. Hence, the present intra Court appeal.

4. Learned counsel for the appellant has opened up his arguments with the contention that the Collector without taking into consideration the candidature of the appellant appointed respondent no.4 – Pardeep Kumar as Lambardar in total disregard to the provisions of Rules 15 and 17 of the Punjab Land Revenue (Lambardari) Rules, 1908. The Collector did not take into consideration that the appellant was more meritorious than respondent no.4. He is younger in age than respondent no.4, more educated than him

and owns more land than respondent no.4. He is son of the deceased Lambardar – Yogesh Kumar and thus, was also having hereditary claim. He has further contended that incorrect finding has been given by the Collector that as the appellant used to travel abroad, so he would not be available in the village for the villagers. The fact being that after applying for the post of Lambardar the appellant had never gone abroad and is continuously residing in the village till date. The Collector appointed respondent no.4 as Lambardar only on the basis of reports/recommendations made by the Sub Divisional Magistrate and Tehsildar. He has further argued that the learned Single Judge has also not taken into consideration the governing principles which are required to be considered while appointing Lambardar of a village. He has contended that the case of the appellant is squarely covered by the law laid down in **Pishora Singh Vs. State of Punjab & others, 2015 (2) RCR (Civil) 344** and **Mahavir Singh Vs. Khiali Ram, 2009 (1) RCR (Civil) 757 (SC)**. However, the aforesaid judgments have been totally ignored by the learned Single Judge. He has further urged that illegality and perversity in the selection made by respondent no.3 i.e. the District Collector is writ large which has not been considered by the learned Single Judge and it has not been taken into consideration that from every count, the appellant was a more suitable candidate for being appointed as Lambardar and that in the light of the above submissions, the impugned order is liable to be set aside.

5. We have heard learned counsel for the parties and have perused the record thoroughly with their able assistance.

6. A perusal of the order dated 26.10.2020 passed by the Collector

reveals that specific reasons have been given therein for appointing respondent no.4 as Lambardar in preference to the appellant. It has been categorically mentioned therein that respondent no.4 – Pardeep Kumar was more educated, a former Sarpanch and a social worker and that his name had also been recommended by the Sub Divisional Magistrate and Tehsilsar, Nangal.

7. The learned Single Judge has rightly held that choice of the Collector cannot be interfered in a cavalier manner and that the appointment made by the Collector has to be given due weightage unless some serious discrepancies are found in such appointment. In this context, he has rightly placed reliance upon the law laid down by this Court in **Sukhjinder Pal Singh Vs. State of Punjab & others, 2016(3) RCR (Civil) 725.**

8. It is a trite law that in the matter of appointment of a Lambardar, the Collector being the appointing authority, is best placed to judge the relative merits of the candidates and select a suitable candidate. As already observed, from the order of the Collector dated 26.10.2020, it transpires that the Collector had considered all relevant factors and relative merits of the contesting candidates before appointing respondent no.4 as Lambardar. The learned Single Judge has rightly held that the Collector's order is based upon proper appraisal of the facts and merits. There are also concurrent findings of all the revenue authorities that respondent no.4 was more suitable for being appointed as a Lambardar. It has specifically been pointed out by the learned Single Judge that though travelling abroad is not a disqualification for appointment as a Lambardar but the appellant had remained abroad for a considerable time. The availability of the Lambardar

in the village is essential and hence the decision of the Collector was rational in the fitness of circumstances.

9. Thus, the learned Single Judge had properly considered the matter in the right perspective. We do not find any illegality or perversity in the order passed by the learned Single Judge, warranting any interference by us.

10. Accordingly, the instant intra Court appeal is dismissed.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

18.10.2023
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |