

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

**LPA-1303-2023 (O&M)
Date of decision:14.09.2023**

Pritam Singh

... Appellant

Vs.

State of Punjab & others

... Respondents

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

Present: Mr. Binat Sharma, Advocate for the appellant.

Ms. Deepali Puri, Additional Advocate General, Punjab.

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SUKHVINDER KAUR, J.

1. This Intra Court Appeal has been preferred against the order dated 28.07.2023 passed by a learned Single Judge of this Court, whereby Civil Writ Petition No.11505 of 2017 filed by the appellant has been dismissed.

2. Briefly stated, the facts of the case are that a proclamation for the post of Nambardar in village Raipur Tehsil Balachaur, District Shaheed Bhagat Singh Nagar was made on 04.11.2011 and in pursuance thereto, 7 applications were received including the application filed by the appellant. On appreciation of merits of the candidates applying for the said post, the Assistant Collector IInd Grade, Balachaur, vide order dated 02.05.2012 recommended the name of the appellant and sent the report to the Sub Divisional Magistrate, Balachaur, who vide order dated 01.04.2013, also recommended the name of appellant for the new Nambardar of village Raipur. The appellant moved an application dated 01.04.2013 for

cancellation of the application of respondent no.6, namely, Harmesh Lal. The Collector, after analysis of the the inter-se merit, appointed respondent no.6, namely, Harmesh Lal as Nambardar of the village vide order dated 28.11.2013. Feeling aggrieved of the appointment of respondent no.6 – Harmesh Lal, the appellant filed an appeal before the Commissioner, who vide order dated 24.07.2015 dismissed the same. Thereafter, appellant filed a revision and the Financial Commissioner finding no illegality in the order passed by both the authorities, dismissed the said revision vide order dated 23.02.2017. Being dissatisfied with the order passed by the authorities below, the appellant knocked the doors of this Court by way of filing a writ petition i.e. CWP-11505-2017 – Pritam Singh Vs. State of Punjab & others. The learned Single Judge vide the impugned order dated 28.07.2023 dismissed the said writ petition. Hence, the present intra court appeal.

3. Learned counsel for the appellant has contended that the cut off date for the application for appointment of Nambardar was 04.11.2011 and on the said date, respondent no.6 – Harmesh Lal did not own any land. He acquired the ownership of some land only on 07.11.2012. He further submitted that the Assistant Collector Grade-II and the Sub Divisional Magistrate have rightly recommended the name of the appellant for appointment to the post of Nambardar of the village after appreciation of inter-se merit but the Collector failed to correctly appreciate the inter-se merit while appointing respondent no.6 as Nambardar. The learned Single Judge has erred in law by ignoring the fact that father of the appellant was also Nambardar of the village and the appellant has more knowledge about work of Nambardar. Besides that he was a fit person being from the

disciplined force and during the time of terrorism in the State of Punjab, the appellant had served the State and had also received a commendation certificate. He also owned 10 marlas of land in the village. So from every angle, he was more suitable for being appointed as Nambardar and in the light of the above submissions, the impugned order is liable to be set aside.

4. We have heard learned counsel for the parties and have perused the record thoroughly.

5. It is not disputed that in all 7 applications were received for the post of Nambardar and out of these 7 candidates, only two candidates remained in fray. After analysing of the inter-se merits of the appellant and respondent No.6, respondent No.6 was appointed as Nambardar of the village by the Collector vide order dated 28.11.2013. Aggrieved of the same, the appellant filed an appeal before the Commissioner which was dismissed by the Commissioner on 24.07.2015. Again, the appellant filed revision against the said order before the Financial Commissioner, which was also dismissed vide order dated 23.02.2017.

6. Law has been well settled by various judicial pronouncements that choice of the Collector should normally be not disturbed unless it is shown that the same was grossly irregular or perverse. In this context, the learned Single Judge has rightly relied upon the decision rendered by this Court in **Sukhjinder Pal Singh Vs. State of Punjab & others, 2016(3) RCR (Civil) 725** wherein it was held that -

“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.”

7. It is trite law that in the matter of appointment of a Nambardar, the Collector being the appointing authority is best placed to judge the relative merits of the candidates and select a suitable candidate.

8. A perusal of the order of the Collector dated 28.11.2013 reveals that the Collector had considered all the factors and relative merits of the contesting candidates before appointing respondent No.6 as a Nambardar. The contention of the learned counsel for the appellant that respondent No.6 did not own any land in the village had also been discussed by the Collector in the said order and it has been held that respondent No.6 had 6 kanals and 2 marlas of land in his name at the time of submitting his application for the post of Nambardar.

9. It has also been specifically observed by the Collector that respondent No.6 was 54 years of age whereas the appellant was 65 years of age and being younger in age he was more suitable and that respondent No.6 was also having more knowledge about the Nambardari work than the appellant – Pritam Singh.

10. Concurrent opinions in favour of respondent No.6 have been given by the Collector vide order dated 28.11.2013, by the Commissioner vide order dated 24.07.2015 and by the Financial Commissioner vide order dated 23.02.2017.

11. The appellate and the revisionary authorities can upset findings by the Collector only if such findings are found to be ex-facie illegal. So when no illegality or perversity has been found in the order of the Collector then the impugned order passed by the learned Single Judge does not

warrant any interference.

12. Moreover, it has been fairly conceded by the learned State counsel that for the last about 10 years respondent No.6 is working as a Nambardar and that there is also no complaint against his working.

13. 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.

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

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

14.09.2023

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