

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16564-2023

Date of decision: 10.10.2023

Rani Devi

... Petitioner

Versus

Financial Commissioner (Appeals) and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Vikas Mehsempuri, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 31.10.2018 (Annexure P-1) passed by respondent No.3, order dated 03.06.2019 (Annexure P-3) passed by respondent No.2 and order dated 01.09.2022 (Annexure P-5) passed by respondent No.1, respectively, being illegal and contrary to the law settled as well as against the facts proved on record, so the same are liable to be set aside.

Adumbrated facts of the case are that on the demise of Fakir Chand, earlier Lambardar of the village Atari Tehsil Banga, District SBS Nagar on 28.05.2017, process for the appointment of new SC Lambardar was initiated by Tehsildar, Banga after getting approval from SDM, Banga on 02.08.2017. Resultantly, *Mushtri Munadi* was conducted in the village for inviting applications from the interested candidates. In response to the same, 10 applications were received from the candidates. Character verifications of all the candidates were conducted. On the evaluation of the merits of the petitioner, she was found to be 44 years of age and matric pass. She could read Punjabi, Hindi and English languages and remained member of the School Committee. Respondent No.4 Inderjeet Singh was found to be 29 years of age and BA by qualification. Besides this, he could read, Punjabi, Hindi and

English languages. His name was recommended by the Tehsildar, Banga and SDM, Banga. The learned Collector on the overall evaluation of the inter-se merits of the candidates in fray, found respondent No.4-Inderjeet Singh to be the most suitable candidate and thus, appointed him as new SC Lambardar of the village vide order dated 31.10.2018 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal before the Commissioner, Roopnagar Division, Roopnagar. The learned Commissioner heard both the sides and re-appreciated the evidence on record and finding no merit in the appeal, dismissed the same vide order dated 03.06.2019 (Annexure P-3). Aggrieved by the same, the petitioner filed revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner. Learned Financial Commissioner re-appreciated the evidence on record and after hearing both the sides, finding nothing perverse dismissed the same vide order dated 01.09.2022 (Annexure P-5). Thus, the order passed by the Collector has been affirmed by the Appellate and revisional authorities. Hence, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that as per facts and circumstances of the case, it is evident that the petitioner was more meritorious candidate. He submits that though respondent No.4 is younger in age, more qualified than the petitioner, however, he does not have a good reputation in the village as he had encroached upon the land of the Gram Panchayat. He also submits that respondent No.4 had embezzled Gurudwara funds and thus, not eligible for the post of Lambardar. He has submitted that the authorities below have miserably failed to appreciate the evidence on record. He submits that as per the mandate of Rule 15 of the Punjab Land Revenue (Lamardari) Rules, 1908, the petitioner is most meritorious and thus,

the impugned orders being unsustainable in the eyes of law, deserve to be set aside by appointing the petitioner as Lambardar of the village.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner was 44 years of age and matric by qualification, whereas, respondent No.4 was 29 years of age and BA by qualification. Character verification of all the candidates in the fray was conducted. Police verification report was also sought. Precise argument raised by counsel for the petitioner is that respondent No.4 had encroached upon the Panchayat's land and he had embezzled the Gurudwara funds, however, there is nothing on record to substantiate this argument raised by counsel for the petitioner. All the three authorities i.e. the Collector and thereafter, the Appellate and revisional authorities have also appreciated the arguments raised by counsel for the petitioner, however, they found no merit in the arguments raised and ultimately declined the same.

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. Thus, respondent No.4 being younger in age was the preference of the Collector.

It is settled principle of law that the Collector is the prime authority in the appointment of the Lambardar and respondent No.4 was found to be more suitable for the appointment of the Lambardar. 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.

All the three subordinate authorities have taken consistent view and thus, order passed by the Collector is found to be suffering from no perversity. This Court in Hakam Singh vs. Financial Commissioner (Revenue), Punjab and others, 2016(4) RCR (Civil) 335 while dealing with the same question has held as under:-

“3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.”

In view of the facts and circumstances of the case and on the anvil of law settled, this Court does not find any perversity in the impugned orders and thus, the present petition is dismissed being devoid of any merit.

(RAJESH BHARDWAJ)
JUDGE

10.10.2023
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No