

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20958 of 2023

Date of Decision:20.09.2023

Mohan Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Onkar Singh, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for issuance of a writ in the nature of certiorari for quashing the order dated 14.09.2017 (Annexure P-2) passed by the Collector, Jalandhar; order dated 16.10.2019 (Annexure P-4) passed by the Commissioner, Jalandhar Division, Jalandhar and order dated 13.02.2023 (Annexure P-6) passed by the Financial Commissioner, Punjab.

Brief facts of the case are that on the death of earlier Lambardar, namely, Joginder Singh, son of Guljar Singh on 29.05.2015, the post of Lambardar in general category in village Kohala, Tehsil and District Jalandhar fell vacant. For filling up the post, process for appointment of new Lambardar was initiated. The necessary approval was granted by the authorities and in pursuance to the same, the mustri munadi was conducted in the village for inviting the applications from the eligible candidates. In pursuance to the same, total four applications from Mohan

Singh son of Joginder Singh, Tarlochan Singh son of Ujagar Singh, Sardara Singh son of Joginder Singh and Jagjit Singh son of Darshan Singh were received. After submitting the applications, the applicant, namely, Jagjit Singh did not come present and hence, rest of three candidates remained in the fray for consideration for their appointment as a Lambardar. Character verification of all the candidates were got done. Their applications were verified and *interse* merits were evaluated. On comparison of *interse* merits, the petitioner was found to be absent by the Collector on the day of evaluation of interse merits of the candidates. So far as respondent No.4 is concerned, he was found to be 39 years of age and M.A. by qualification. Besides this, he owned 01 acre of land. Learned District Collector on comparison of over all merits of the candidates, found Sardara Singh i.e. respondent No.4 to be the most suitable candidate and thus, appointed him as Lambardar of the village vide his order dated 14.09.2017. Aggrieved by the same, two appeals were filed, one by the petitioner, namely, Mohan Singh and second by Tarlochan Singh i.e. respondent No.5. Both the appeals were heard together by the Commissioner, Jalandhar Division, Jalandhar. However, the learned Commissioner, after hearing both the sides, finding no merit in the appeals, dismissed the same vide his order dated 16.10.2019 and thus, upheld the order passed by the District Collector. Aggrieved by the same, the petitioner filed the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, Punjab. The learned Financial Commissioner, after hearing both the sides, dismissed the same vide his order dated 13.02.2023 and thus, the orders passed by the District Collector and the

Commissioner were upheld by the learned Financial Commissioner. Hence, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on the initiation of process of appointment of new Lambardar, the petitioner had duly applied along with other candidates. He submits that the petitioner was 60 years of age and had done Graduation from Guru Nanak Dev University, Amritsar. He submits that the petitioner had also obtained Degree of B.S. from America and he owns about 8 acres and 2 Kanals of land in the village. He submits that the petitioner was most qualified candidate among all the applicants and had more land than the other candidates. He submits that despite that, the Collector failed to appreciate the merits of petitioner and thus, illegally appointed respondent No.4 as Lambardar of the village. He submits that respondent No.4 had taken loan from the OBC Bank and he being the defaulter for the same, was not eligible for consideration for appointment of Lambardar. He submits that it is obvious that the Collector had committed a patent illegality in the appointment of respondent No.4 as Lambardar of the village and as the order passed is perverse, the same is unsustainable in the eyes of law. He further submits that in the appeal filed before the Commissioner, the Commissioner failed to appreciate the submissions made by learned counsel for the petitioner and thus, illegally dismissed the same. He submits that the learned Financial Commissioner also failed to appreciate the facts and circumstances of the case and the law settled and thus, drawn a wrong conclusion in dismissing the revision petition filed by

the petitioner. He submits that as the impugned orders suffer from perversity, the same deserve to be set aside.

I have heard learned counsel for the petitioner and perused the material on record.

After hearing learned counsel for the petitioner and perusing the material on record, it is apparent that process for appointment of new Lambardar on the death of Lambardar, namely, Joginder Singh son of Guljar Singh in village Kohala, Tehsil and District Jalandhar was initiated. In pursuance to the same, the mustri munadi was conducted and the applications were invited from the eligible candidates. In response of which, though four applications were received. However, finally three candidates remain in the fray, namely, Mohan Singh, Tarlochan Singh and Sardara Singh. However, on the evaluation of their interse merits, the District Collector found Sardara Singh i.e. respondent No.4 to be most suitable candidate and thus, he was appointed as Lambardar of the village vide order dated 14.09.2017. The appeal filed by the petitioner was also dismissed by the Commissioner vide order dated 16.10.2019 and thereafter, the revision filed by the petitioner was also dismissed by the learned Financial Commissioner vide order dated 13.02.2023.

It is the precise submission made by learned counsel for the petitioner that the petitioner is highly qualified. Besides this, he submits that respondent No.4 is a defaulter of the Bank as he did not repay the loan taken from the OBC Bank. It is apparent from the record that the petitioner was 60 years of age whereas respondent No.4 was 39 years of age at the

time of appointment. Besides this, respondent No.4 was M.A. in Political Science and had done PGDCA in Computer Course. Thus, respondent No.4 was equally well qualified candidate. It is there on record that father of respondent No.4 had taken loan from the OBS Bank and after his death, the loan was transferred in the name of respondent No.4. It is apparent from the record that NOC issued by the OBC Bank was produced before the Court, which would show that respondent No.4 was not a defaulter of the Bank and thus, the arguments raised by learned counsel for the petitioner is without any force. It is most pertinent to note that though the petitioner filed his application in response to the mustri munadi conducted for the appointment as the Lambardar, however at the time of appointment, when the Collector made the selection, the petitioner was not even available as he had gone to USA. Thus, at the time of appointment, the petitioner was not even personally present before the Collector.

Learned counsel for the petitioner though has submitted before this Court that the petitioner had been appearing in person before the Collector after the submission of his application. However, he could not appear on the date of appointment before the Collector. Non appearance of the petitioner before the Collector for his personal interaction by the Collector was sufficient to ignore the candidature of the petitioner. Even otherwise, the petitioner is 60 years of age whereas respondent No.4 is 39 years of age and thus, it is evident that respondent No.4 was about 20 years younger than the petitioner. It has been held by the Hon'ble Supreme Court in judgment titled as ***Mahavir Singh Vs. Khiali Ram***, 2009(1) RCR(Civil) 757 that a candidate who is younger in

age should have been given the preference. Besides this, it is a settled law that choice of the Collector should not be normally interfered unless some grave discrepancy is observed in the appointment.

This Court in “*Sukhjinder Pal Singh Vs. State of Punjab and others*”, 2016(3)R.C.R.(Civil)725, 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.”*

In view of the above discussions, this Court does not find any merit in the present petition and the impugned orders dated 14.09.2017 (Annexure P-2); 16.10.2019 (Annexure P-4) and 13.02.2023 (Annexure P-6) do not suffer from any perversity and hence, this petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

20.09.2023

rittu

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No