

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

CWP-22309-2023

Date of Decision: 05.10.2023

Tarsem Singh

..... Petitioner

Versus

The Financial Commissioner (Appeal), Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Aditya Dassaur, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of the order dated 01.06.2023 (Annexure P-5), whereby, respondent No.1 has ordered fresh appointment of new Lambardar.

Adumbrated facts of the case are that on account of death of Gurdial Singh, earlier Lambardar of the village Pathlawar, Tehsil Banga, process for the appointment of new Lambardar was initiated by the SDM, Banga vide letter dated 14.03.2019. *Mushtari Munadi* was conducted in the village and the application from the interested candidates were invited. As a result, five applications were received from the following candidates:-

1. Sh. Gurteg Singh son of Darshan Singh
2. Sh. Harpal Singh son of Tarsem Singh
3. Sh. Gurpreet Singh son of Kuldeep Singh (respondent No.4)
4. Sh. Tarsem Singh son of Joginder Singh (petitioner)
5. Sh. Shingara Singh son of Atma Singh

On receipt of the same, character verification of all the candidates were conducted and their antecedents were got verified from the concerned police station. On the verification of the applications received,

Tarsem Singh i.e. the petitioner was found to be 58 years of age; 7th class

pass, owner of 7 acres of land and was an agriculturist. Besides this, he remained Sarpanch of the village twice and Panch of the village thrice and was a member of the Cooperative Society of the village. Respondent No.4 was found to be 34 years of age; B.A. by qualification and owner of 11 acres of land. On comparison of the inter-se merits of all the candidates, the Deputy Commissioner-cum-District Collector, Shaheed Bhagat Singh Nagar appointed respondent No.4- Gurpreet Singh as Lambardar of the village vide order dated 23.12.2020 (Annexure P-1). Aggrieved by the same, Tarsem Singh i.e. the petitioner filed an appeal before the Commissioner, Rupnagar Division, Rupnagar. On hearing both the sides, the Commissioner set aside the order passed by the learned Collector and thus, remanded the case to the Collector to pass fresh order vide order dated 30.11.2021 (Annexure P-2). Aggrieved by the order dated 30.11.2021, respondent No.4 filed appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner. Learned Financial Commissioner accepted the appeal filed by respondent No.4 vide order dated 04.05.2023. However, respondent No.4 Gurpreet Singh expired on 28.04.2023 and thus, the petitioner filed an application for recalling the order dated 04.05.2023 on the ground that Gurpreet Singh was already dead and thus, the appeal filed before the Financial Commissioner be disposed of as infructuous. However, learned Financial Commissioner, after hearing the counsel for the parties and perusing the record, disposed of the application filed by the petitioner by directing the District Collector for proceeding with the appointment of new Lambardar in place of Gurpreet Singh in accordance with law vide order dated 01.06.2023. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

It has been contended by learned counsel for the petitioner that the petitioner was most meritorious among all five candidates, who applied for the post of Lambardar, but the learned Collector illegally appointed respondent No.4 as Lambardar by ignoring the merits of the petitioner. He further submits that the Commissioner while appreciating the facts and circumstances of the case in the appeal filed by the petitioner rightly set aside the order of the Collector and remanded the case for fresh decision, but the Financial Commissioner while deciding the appeal filed by respondent No.4 illegally accepted the same. He submits that as respondent No.4 had already died, the petitioner filed an application for recalling the order dated 04.05.2023 and appointing the petitioner as Lambardar being well deserving candidate, but the Financial Commissioner again fallen in error by directing the Collector to initiate fresh process for the appointment of Lambardar. He submits that on the demise of respondent No.4, the petitioner being the only candidate, should have been automatically appointed as Lambardar of the village, but the learned Financial Commissioner miserably failed to appreciate the same and thus, instead of disposing of the appeal filed by respondent No.4 as infructuous, directed for initiating fresh process for appointment of Lambardar. He submits that the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

Heard.

Evidently, respondent No.4 (now deceased) was appointed by the Collector finding him to be the most suitable candidate among all the candidates, who applied for the post. In the appeal filed by the petitioner, the Commissioner set aside the order of the Collector by remanding the case to the Collector. However, respondent No.4 challenged the same way of

filing appeal before the learned Financial Commissioner, but during the pendency of the same, he expired. The review application filed by the petitioner was dismissed by the Financial Commissioner vide impugned order dated 01.06.2023. The precise submission made by the counsel for the petitioner is that after the demise of respondent No.4, the petitioner should have been automatically declared as Lambardar of the village, which in my considered view, is without any force. As respondent No.4 who was appointed by the Collector died during the pendency of the appeal before the Financial Commissioner, the view taken by the Financial Commissioner for initiating fresh process for the appointment of Lambardar, suffers from no illegality. However, the petitioner would be at liberty to participate in the fresh process for appointment of Lamarbar. Hence, finding no merits in the present petition the same is hereby dismissed.

05.10.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No