

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

LPA-1427-2023 (O&M)
Date of decision:28.11.2023

Krishan Singh

... Appellant

Vs.

State of Haryana & others

... Respondents

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

Present: Ms. Kushaldeep Kaur, Advocate for the appellant.

Mr. Amit Jain, Advocate for respondent No.5.

...

SUKHVINDER KAUR, J.

1. This Intra Court Appeal has been preferred against the order dated 17.08.2023 passed by a learned Single Judge of this Court, whereby Civil Writ Petition No.17788 of 2023 filed by the appellant has been dismissed.

2. Briefly stated, the facts of the case are that on account of death of Lambardar - Sh. Daniram son of Sh. Sanwalia of Village Hajipur on 08.01.2012, post of Lambardar fell vacant and the process for the appointment of new Lambardar was initiated. *Mustri munadi* was got conducted in the village for inviting the applications from the interested candidates. Two candidates, namely, Krishan Singh (appellant herein) son of Sh. Daniram and Mool Chand (respondent no.5) son of Daulat Ram appeared for appointment to the post of Lambardar. Their character verification was got done. Krishan Singh had studied upto 10th Class and was 51 years of age whereas, respondent no.5 - Mool Chand was 43 years

of age and had also studied upto 10th class. Further, the name of respondent no.5 was recommended by 37 persons of the village. After comparison of their inter se merit, the District Collector, Gurgaon vide his order dated 04.10.2016 appointed respondent no.5 as a Lambardar. Against the said order, the appellant filed appeal before the Commissioner, Gurugram Division, Gurugram. The Commissioner vide order dated 06.12.2018 accepted the appeal of the appellant while setting aside the order of the Collector and appointed the appellant as a Lambardar. Further the District Collector was directed to issue a Sanad Lambardari in favour of the appellant. Respondent no.5 then filed a revision petition before the Financial Commissioner Revenue at Chandigarh which was allowed vide order dated 15.02.2023 and upholding the order of Collector, respondent no.5 was again appointed as Lambardar. Feeling dissatisfied with the order of the Financial Commissioner, the appellant knocked the doors of this Court by way of filing a writ petition i.e. CWP-17788-2023 – Krishan Singh Vs. State of Haryana & others. The learned Single Judge vide the impugned order dated 17.08.2023 dismissed the said writ petition. Hence, the present intra Court appeal.

3. It has been contended by learned counsel for the appellant that the learned Single Judge has overlooked the aspect that the appellant was the most eligible candidate for being appointed as Lambardar as he owned 4.25 acres of land independently on the date of submission of his application. This fact has also not been appreciated by the learned Single Judge that respondent no.5 could not have been appointed as Lambardar

on account of lack of integrity as he was found to be in illegal possession of 302 sq. yards of panchayat land. He also tendered wrong affidavit stating that he independently owned 6 acres of land whereas it was a joint family property. He has further submitted that it is equally settled law that jurisdiction can be invoked and choice of Collector can be interfered with, if same is found to be perverse by placing reliance on the incorrect, false, misleading material or important evidence was overlooked by the Collector which would have resulted in different decision. He has argued that the appellant's dedication towards social welfare and his contribution to the national programmes were also not considered while considering the suitability for the post of Lambardar. The learned Single Judge did not consider that Collector had erroneously placed undue emphasis on the age of the appellant. Mere difference of few years in age should not be the sole detriment for the eligibility of a candidate for the post of Lambardar. In the light of the above submissions, it has been submitted that 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 for the post of Lambardar only two candidates remained in the fray. After analysing of the inter-se merits, respondent No.5 was appointed as Lambardar of the village by the Collector vide order dated 04.10.2016. The appellant filed appeal against the said order before the Commissioner, which was allowed vide order dated 06.12.2018 and the appellant was appointed as

Lambardar. Against the said order, respondent no.5 filed revision petition before the Financial Commissioner, Chandigarh, who vide order dated 15.02.2023 allowed the same and again ordered for appointment of respondent no.5 as Lambardar of the village.

6. It is 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 also that the choice of the Collector should normally be not disturbed unless it is shown that the same was grossly irregular and/or perverse. In this context, the learned Single Judge has rightly placed reliance 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. A perusal of the order of the Collector dated 04.10.2016 reveals that he had considered all relevant factors and relative merits of the contesting candidates before appointing respondent no.5 as a Lambardar. It has been appreciated by the Collector that respondent no.5 was educated upto matric. He was having a good character and actively participated in social works. He owned land in the village and

was staying in the village. The Sarpanch and 37 other persons of the village had recommended his name. He was also younger in age than the appellant.

8. As name of respondent no.5 was recommended by the then Sarpanch, member Panchayat and 37 other persons of the village, it shows that the conduct and character of respondent no.5 was good and the villagers were happy with his services. It was also rightly appreciated that in case of appointment of Lambardar age is also one of the valid considerations. A person younger in age can perform his duties in a better manner as compared to a person of advanced age. In this context the learned Single Judge has rightly placed reliance upon a decision of the Supreme Court in **Mahavir Singh vs. Khiali Ram, 2009(1) RCR (Civil) 757.**

9. The order of the Collector was wrongly set aside by the Commissioner without properly weighing the comparative merits and without considering the material available on record. So, the order dated 06.12.2018 passed by the Commissioner was rightly set aside by the Financial Commissioner vide order dated 15.02.2023.

10. So far as allegation of illegal encroachment by respondent no.5 on the panchayat land is concerned, no material or report regarding the alleged illegal encroachment has been produced.

11. In the facts and circumstances of the present case, we do not find any illegality or perversity in the order passed by the learned Single Judge warranting any interference by us.

12. Accordingly, the instant intra Court appeal is dismissed.
13. Pending application(s), if any, shall also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

28.11.2023
harjeet

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