118 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25421-2023
Date of Decision: 20.11.2023

Sukhdev 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.

Prayer in the present petition is for quashing the order dated 07.01.2015 (Annexure P-2) passed by collector Sangrur, order dated 11.05.2016 (Annexure P-4) passed by the Commissioner, Patiala and order dated 20.02.2017 (Annexure P-6) and Review order dated 02.03.2023 (Annexure P-7) passed by the Financial Commissioner, respectively.

Adumbrated facts of the case are that on account of death of Darbara Singh, earlier Lambardar SC of village Fatehgarh, process for the appointment of new Lambardar was initiated. *Mushtari Munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the same, 6 person filed applications including Sukhdev Singh (petitioner) and Paramjit Kaur (respondent No.4). Character verifications of all the candidate were conducted and on the appreciation of the applications received Smt. Paramjit (respondent No.4) was found to be 38 years of age and BA second year pass by qualification. On the other hand, Sukhdev Singh (petitioner) was found to be 63 years of age and 10+2 pass. Besides this, he retired from Army in the year 1985. Learned Collector on evaluation of the inter-se merits of all the candidates, finding respondent No.4 to be more meritorious candidate appointed her as Lambardar of the

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village vide order dated 07.01.2015 (Annexure P-2). Aggrieved by the same, the petitioner filed an appeal before the Commissioner, Patiala Division, Patiala. Learned Commissioner heard both the sides and perused the record and finding no merit in the appeal filed by the petitioner, dismissed the same vide order dated 11.05.2016 (Annexure P-4). Again aggrieved by the same, the petitioner filed a revision before the learned Financial Commissioner. Learned Financial Commissioner heard both the sides, perused the record and finding no perversity in the order passed by the Collector and that of by the Commissioner, dismissed the revision petition vide order dated 20.02.2017 (Annexure P-6). Thereafter, the petitioner filed a review petition before the learned Financial Commissioner, who after hearing the counsel for both the parties, dismissed the same vide order dated 02.03.2023. Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

It has been vehemently contended by learned counsel for the petitioner that comparison of the inter-se merits of both the candidates would show that the petitioner was more meritorious than respondent No.4. He submits that it is evident from the record that the petitioner was 63 years of age and 10+2 pass and besides this, he was retried from Army and there after he served in the Punjab Police. He submits that as the petitioner had served the nation, thus, in the light of the parameters of Rule 15 of the Punjab Land Revenue Rules, the petitioner was qualified enough to be appointed as Lambardar but he was illegally rejected by the Revenue authorities. He submits that thus, the learned Collector passed a perverse order in appointing respondent No.4 as Lambardar of the village. He has submitted that the Appellate and Revisional authorities have equally failed

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in appreciating the law settled that the order passed by the learned Collector can be interfered with, if the same suffers from perversity. He submits that in the facts and circumstances of the case, the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that respondent No.4 was much younger than the petitioner. Besides this, she was more qualified than the petitioner. 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.

From perusal of the record, it is revealed that the petitioner was found to have been involved in two FIRs i.e. FIR No.97 dated 14.09.1996 under Sections 353, 324, 307, 332, 336, 186, 148, 149 IPC and Sections 27 and 30 Arms Act and FIR No.74 dated 21.05.2009 under Sections 353, 109, 447, 186, 511, 427, 148, 149 IPC and Section 3 of Prevention of Damage to Public Property Act, 1984. Thus, though the petitioner is retired from Army and lateron appointed in Punjab Police, however, on the comparison of the inter-se merits of both the candidates, his candidature was rightly rejected by the Collector by appointing respondent No.4 as Lambardar of the village as respondent No.4 was having clean antecedents whereas the petitioner was involved in two criminal cases. The Appellate and Revisional authorities have also rightly upheld the order of the Collector to be suffering from no perversity.

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:-

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> "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 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

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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No

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