

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

CWP-31616-2019

Date of Decision: 07.12.2023

Beant Singh

..... Petitioner

Versus

Financial Commissioner (Appeals)and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. A.S.Salar, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of the order dated 22.07.2019 (Annexure P-5) passed by learned Financial Commissioner-respondent No.1, thereby restoring the order dated 08.11.2016 (Annexure P-4) passed by learned Commissioner, and the order dated 29.06.2016 (Annexure P-3) passed by the Collector.

Adumbrated facts of the case are that for filling up newly created vacancy of SC Nambardar in village Balari Kalan, Tehsil and District Fatehgarh Sahib, 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, three applications were received from Jaspal Singh (respondent No.3), Beant Singh (petitioner) and Gurdeep Singh. On receipt of the applications, character verifications of all the candidates were got conducted from SSP, Fatehgarh Sahib. Applicant Gurdeep Singh did not appear in the Court of AC 2nd Grade and thus, only two candidates i.e. the petitioner and respondent No.3 remained in the fray. On the appreciation of merits and demerits of the applicants, Beant Singh (petitioner) was found to be 30 years of age and 8th class pass by qualification. On the other hand, Jaspal

Singh (respondent No.3) was found to be 70 years of age and no proof regarding his qualification was submitted. The learned Collector on evaluation of the inter-se merits of both the candidates in fray, finding respondent No.3 to be more meritorious appointed him as a Lambardar of the village vide order dated 08.01.2015 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal before the Commissioner, Patiala Division, Patiala. Learned Divisional Commissioner after hearing both the sides found the order passed by the learned Collector to be perverse and thus, remanded the case to the District Collector for decision afresh vide order dated 09.09.2015 (Annexure P-2). Thus, the learned Collector again heard both the sides afresh and found the petitioner as permanent resident of the village; 31 years of age and 9th class pass. The learned Collector found respondent No.3 to be much elder in age than the petitioner and totally incompetent to read. Resultantly, on fresh consideration the learned Collector found the petitioner (Beant Singh) to be more suitable and thus, appointed him Lambardar of the village vide order dated 29.06.2016 (Annexure P-3). Aggrieved by the same, respondent No.3 filed an appeal before the Commissioner, who appreciated the evidence on record and after hearing both the sides, found no merit in the appeal and thus, rejected the same vide order dated 08.11.2016 (Annexure P-4). Aggrieved by the same, respondent No.3 filed a revision before the learned Financial Commissioner, who accepted the same and thus, set aside both the orders passed by the learned Collector and Commissioner and thus, appointed respondent No.3 Jaspal Singh as Lambardar of the village vide order dated 22.07.2019 (Annexure P-5). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner at the outset has submitted that respondent No.3-Jaspal Singh has expired during the pendency of this petition.

This Court had granted status quo with regard to the Lambardari vide order dated 01.11.2019, thus, it is apparent that the petitioner is working as Lambardar of the village till date. Though respondent No.3 is no more, however, this Court finds no purpose to implead his LRs in the facts and circumstances of the case. Thus, this Court proceeds further with the assistance of counsel for the petitioner and learned State counsel.

It has been vehemently contended by learned counsel for the petitioner that from the perusal of the inter-se merits of both the candidates, it is apparent that the petitioner was 31 years of age, whereas, respondent No.3 was 71 years at the time of appointment of Lambardar by the Collector. He submits that besides this the petitioner was 9th class pass, whereas, respondent No.3 was illiterate. He submits that as per the settled proposition of law, the petitioner being younger in age has the preferential right for consideration when he was more educated than respondent No.3. He submits that even otherwise, choice of the Collector cannot be interfered in a cavalier manner. Thus, the petitioner was rightly appointed as a Lambardar by the learned Collector which was upheld by the Commissioner as well. He further submits that learned Financial Commissioner has failed to appreciate the same and thus, passed the impugned order totally in contravention of the evidence on record and the law settled and thus, the same being totally perverse deserves to be set aside.

Learned State counsel has submitted before this Court that the impugned order has been passed by the quasi-judicial authorities. Though

she has not controverted the law settled, but she has submitted that respondent No.3 served in Indian Army and thus, the learned Financial Commissioner has set aside the orders passed by the learned Collector and the Commissioner by appointing him as a Lambardar of the village.

After hearing learned counsel for the parties and perusing the record, it is evident that respondent No.3 has expired during the pendency of the petition. However, this Court has examined the case on merits. There is no gainsaying that the petitioner was not only much younger in age than respondent No.3, but also more qualified than respondent No.3. Learned Collector on evaluating the inter-se merits of both the candidates found the petitioner to be more meritorious and thus, appointed him as Lambardar of the village vide order dated 29.06.2016. The appeal filed by respondent No.3 was also dismissed and thus, the order passed by the Collector was upheld. However, learned Financial Commissioner has ignored the settled proposition of law. 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.

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.

The petitioner is working on the post of Lambardar till date.

In the considered opinion of this Court, the order dated 22.07.2019 (Annexure P-5) is perverse and hence, set aside. Resultantly, the order of the Collector is upheld.

The petition is allowed.

07.12.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No