

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(250)

CWP-2890-2020

Date of decision: - 24.02.2023

Aslam Mohammad

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ashish Aggarwal, Senior Advocate
with Mrs. Aashna Aggarwal, Advocate
and Mr. Vishal Pundir, Advocate
for the petitioner.

Mr. Karan Puggal, DAG, Punjab.

Mr. Jatinder Singla, Advocate, for respondent No.3.

VIKAS BAHL, J. (ORAL)

This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the impugned order dated 25.07.2019 (Annexure P-4) passed by the Assistant Collector 1st Grade-cum-SDM Malerkotla on File No.09/SDM for filling the post of the Lambardar in village Khurd, Tehsil Malerkotla, District Sangrur.

Learned Senior counsel for the petitioner has submitted that in the present petition, the petitioner has two fold grievances. The first grievance is with respect to the settled procedure required to be followed by lower revenue officials while recommending a candidate for the post of Lambardari. It is submitted that vide report dated 22.03.2019 (Annexure P-1), the Assistant Collector 2nd Grade/Naib Tehsildar,

Maletkotla had recommended the petitioner to be appointed as the Lambardar of village Jhaba Patti of village Khurd. It is further submitted that thereafter, on 25.03.2019 (Annexure P-2), the Assistant Collector 1st Grade/Sub Divisional Magistrate, Malerkotla, on the basis of the allegations made by the other candidates against the present petitioner to the effect that he was in illegal possession of some land, had observed that the file be sent back and the representation made by the other candidates on the said aspect be inquired into and further the candidates were also instructed to present themselves before the Court of Assistant Collector 2nd Grade/Naib Tehsildar, Malerkotla on 09.04.2019. It is submitted that thereafter, the report with respect to demarcation had been given in favour of the petitioner and the Assistant Collector 1st Grade, vide order dated 25.07.2019 (P-4), recommended respondent No.3 to be appointed as the Lambardar. Thus, the first grievance of the petitioner is that inspite of there being a specific order passed by the Assistant Collector 1st Grade dated 25.03.2019 (P-2), directing the Assistant Collector 2nd Grade to consider the matter, the same was not done and no fresh recommendation was given by the Assistant Collector 2nd Grade/Naib Tehsildar. It is submitted that the Assistant Collector 1st Grade has directly submitted his recommendation. It is argued that as a matter of settled procedure, the recommendation is to be first made by the Assistant Collector 2nd Grade and then, by the Assistant Collector 1st Grade, which procedure has not been followed in the present petition.

The second grievance highlighted by the learned Senior counsel for the petitioner is that certain documents were sought to be

produced before the Collector for supporting the claim of the petitioner and the said documents are not being considered by the Collector. In the said circumstances, it has been prayed that the documents (Annexures P-5 to P-11) and certain other documents which the petitioner seeks to produce before the Collector and which are relevant for adjudication, be considered by the Collector.

Learned counsel appearing for the respondent No.3, on the other hand, has submitted that the present petition is premature, inasmuch as, the appointing authority under the Punjab Land Revenue Act is the Collector (respondent No.4) and the matter has not yet been decided by the Collector (respondent No.4) and all the pleas raised by both the parties would be considered by the Collector (respondent No.4) at the time of appointment. It is submitted that on account of interim order passed on 03.02.2020, the matter of appointment of the Lambardar is being delayed. It is further submitted that in case, the petitioner is granted liberty to file additional documents, then, even respondent No.3 should be granted liberty to file additional documents.

This Court heard learned Senior counsel for the petitioner as well as learned counsel for the respondents and has perused the paper-book.

As per settled law, it is the Collector, who is the appointing authority in a case of Lambardari. The matter pertaining to the appointment of Lambardar is still pending before the Collector, Malerkotla.

In view of the fact that the Collector is yet to take a decision

with respect to the arguments sought to be raised by both the contesting parties, the present petition is disposed of with the following observations: -

- (i) It would be open to the petitioner as well as respondent No.3 to produce all the documents in support of their claims before the Collector. In case, any such documents are produced, the Collector is directed to take the same on record.
- (ii) The aspect highlighted by the learned Senior counsel for the petitioner with respect to the recommendation made by the lower officers, would also be considered by the Collector after granting an opportunity of hearing to counsel representing the petitioner as well as respondent No.3 before the Collector.
- (iii) The Collector-respondent No.4 is directed to proceed with the hearing of the matter concerning the appointment of the Lambardar and to decide the same, as expeditiously as possible, preferably, within a period of six months from today.

It is made clear that this Court has not opined on the merits of the case and the same would be considered by the Collector, independently on its merits, in accordance with law.

February 24, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No