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

CWP No.23135 of 2023

Date of Decision: 12.10.2023

Krishan Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jitender K. Sehrawat, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Present writ petition has been filed for issuance of a writ in the nature of certiorari for quashing the impugned order dated 26.09.2023 (Annexure P-9) passed by respondent No.2-Financial Commissioner, Haryana, Chandigarh and impugned order dated 20.02.2018 (Annexure P-4) passed by the learned Commissioner, Hisar Division, Hisar whereby the candidature of the petitioner has been rejected, wrongly, illegally and without appreciating the facts and circumstances of the case. Further prayer has been made for staying the operation of impugned orders dated 26.09.2023 (Annexure P-9) and 20.02.2018 (Annexure P-4) during the pendency of the present writ petition.

Brief facts of the case are that on the death of earlier Namberdar, namely Satpal, post of Namberdar in village Narwana, District Jind fell vacant. Hence, process for fresh appointment of new Namberdar

was initiated. On getting the necessary approval, mustri munadi was conducted for inviting the applications from the eligible candidates. As a result, three applications from Kuldeep son of Satpal, Satyawan son of Hari Singh and Krishan Kumar son of Kapoor Chand were received. Thereafter, character verification of all the three candidates were got done and their *inter se* merits were evaluated. On comparison of the *inter se* merits, it was found as follows:

Name	Kuldeep	Satyawan	Krishan
Education	7 th class pass	10 th class pass	10 th class pass
Age	33 years	48 years	36 years
Reputation in village	6 respective persons have deposited statements in his favour.	5 respective persons have deposited statements in his favour	6 respective persons have deposited statements in his favour.
Agricultural land	3 kanal 00 marlas	1 acre	3 acre 3 kanal 7 marlas
Work experience	Son of deceased Namberdar	Brother of deceased Namberdar	Nothing
Encroachment on the panchayat land	Nothing	Nothing	Nothing
Defaulter of Electricity/ Co-operative committee	No	No	No
Character	Good	Good	Good
Relation with deceased Namberdar	Son of deceased Namberdar	Son of deceased Namberdar	Nothing
Other activities	1. Blood Donation certificate 2. certificate of Sawach Haryana issued by the municipal Council, Narwana	--	1. Photocopies of four certificate of Family Planning 2. Photocopy of FD of Allahabad Bank 3.Donation Receipt of Rs.11,00/- deposited in Prime Minister Relief Fund.

The Collector evaluated the *inter se* merits of all the three candidates in the fray and finally concluded that Krishan Kumar i.e. the petitioner was the most suitable candidate and thus, appointed him as the Namberdar of the village vide his order dated 07.08.2017. Aggrieved by the same, respondent No.5, namely, Kuldeep challenged the same by way of filing an appeal before the learned Commissioner, Hisar Division, Hisar. The Commissioner re-appreciated the evidence on record and heard learned counsel for the parties. He found that there are serious allegations of manipulation against the petitioner and thus, finding perversity in the order passed by the Collector, he accepted the appeal filed and thus, remanded the case to the Collector for decision afresh vide his order dated 20.02.2018. Aggrieved by the same, the petitioner filed revision petition under Section 16 of the Haryana Land Revenue Act before the learned Financial Commissioner, Haryana. Learned Financial Commissioner, after hearing both the sides, dismissed the same by directing to initiate the fresh process of appointment of Namberdar vide his order dated 28.03.2023. He further submits that aggrieved by the same, the petitioner filed CWP No.9792 of 2023 before this Court. He submits that the same was partly allowed vide order dated 31.05.2023 by setting aside the order dated 28.03.2023 passed by the learned Financial Commissioner, Haryana and a direction was issued to decide ROR No.371 of 2017-18 afresh in accordance with law, after hearing both the parties. He submits that the learned Authority below again upheld the order dated 28.03.2023 and dismissed the claim of the petitioner vide order dated 26.09.2023 without

appreciating the evidence on record. Hence, the petitioner is before this Court again by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that the petitioner being the most meritorious candidate, out of three candidates, duly appointed by the Collector vide his order dated 07.08.2017. He submits that the petitioner was 36 years of age and matric pass. Besides this, he owned 3 acres, 3 kanals and 7 marlas of agricultural land. He submits that the petitioner had contributed Rs.1100/- to the Prime Minister Relief Fund and he earned a good reputation in the village. He submits that thus being more meritorious, he was appointed by the Collector. He further submits that the learned Commissioner had illegally accepted the appeal filed by respondent No.5 on the basis of conjectures and surmises. He submits that there are bald allegations levelled against the petitioner by respondent No.5 but there was no evidence produced to substantiate the allegations levelled against the petitioner. Thus, the order passed by the Commissioner in setting aside the well reasoned order passed by the Collector was totally without any legal justification. He further submits that the revision filed by the petitioner was dismissed by the learned Financial Commissioner without hearing the petitioner. He submits that as is evident, learned counsel for the petitioner was not present, and thus, the impugned order passed by the learned Financial Commissioner is totally in violation of the principles of natural justice. He submits that the petitioner was the choice of Collector and as per the law settled, the same cannot be interfered with except in the situation where there is patent illegality or perversity in the order passed by the Collector.

However, as there was no perversity whatsoever, in the view taken by the learned Collector, the orders passed by the Commissioner and the learned Financial Commissioner are totally unsustainable in the eyes of law and thus, deserve to be set aside.

I have heard learned counsel for the petitioner and perused the material on record.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that in pursuance to the mustri munadi conducted, three applications for the appointment of Lambardar were received. On evaluation of the *inter se* merits, the petitioner was appointed by the Collector. However, in the appeal filed by respondent No.5, the allegations regarding manipulation were prima facie found. Thus, the appointment of petitioner made by the Collector was set aside and the case was remanded for decision afresh. The revision petition was filed by the petitioner against the same. The learned Financial Commissioner found that FIR No.06, dated 07.01.2021, under Sections 420, 467, 468, 471 & 120-B of IPC was registered at Police Station Narwana City, Jind in which the petitioner was involved. Besides this, there were other allegations against the petitioner. Hence, the learned Financial Commissioner found no perversity in the order passed by the Commissioner, wherein appointment order of the petitioner was set aside and the revision petition was dismissed by directing remand of the case as held by the Commissioner. There is no gainsaying that the choice of Collector being a prime authority in appointment of the Namberdar cannot be interfered in a cavalier manner.

However, in case there are perversity or illegality in the same, the order

passed by him can be interfered with. As apparent from the record available, it was found that overall merits and demerits of the petitioner and that of respondent No.5 were not appreciated by the Collector at the time of appointment of the petitioner and thus, the same suffers from perversity.

Hence, in the considered opinion of this Court, the impugned orders passed by the learned Commissioner dated 20.02.2018 as well as learned Financial Commissioner dated 26.09.2023 suffer from no infirmity. Thus, the present petition being devoid of any merit is hereby dismissed. However, the Collector, Jind is directed to decide the case afresh expeditiously in accordance with law preferably within a period of three months from the date of receipt of certified copy of this order.

(RAJESH BHARDWAJ)
JUDGE

12.10.2023

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No