

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

CWP No.23845 of 2023

Date of Decision: 19.10.2023

Satpal

..... Petitioner

Versus

**Financial Commissioner (Appeals), Punjab
and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Inderjit Sharma, 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 22.09.2021 (Annexure P-6) passed by respondent No.2-Commissioner, Jalandhar Division, Jalandhar in an Appeal bearing bearing case No.RA-22-2017 preferred by respondent No.4 against well reasoned and legal order dated 07.06.2017 (Annexure P-5) passed by the District Collector, Gurdaspur and that of the impugned order dated 17.10.2022 (Annexure P-7) passed by respondent No.1 in ROR-972-2021 titled as “Satpal v/s Pawan Masih”, whereby revision petition preferred by the petitioner has been dismissed by upholding the impugned order dated 22.09.2021 (Annexure P-6) without appreciating the material and same is contrary to the settled principles of law, being the same, patently, illegally, perverse, cryptic, unwarranted, unjustified and against the provisions of Punjab Land

Revenue Act, 1887 and liable to be quashed accordingly. Further prayer has been made for staying the operation of impugned orders dated 22.09.2021 (Annexure P-6) and 17.10.2022 (Annexure P-7) passed by respondent No.1 and 2 respectively.

Adumbrated facts of the case are that on the death of earlier Lambardar (Schedule Caste), namely Sadiq Masih, post of Lambardar (SC category) in village Bhule Chak, Tehsil and District Gurdapur fell vacant. Hence, the process for fresh appointment of new Lambardar was initiated. On getting the necessary approval from the District Collector, Gurdapur on 22.07.2016, mustri munadi was conducted in the village for inviting the applications for appointment of the Lambardar (SC category) from the eligible candidates. In pursuance to the same, applications from Pawan Masih son of Shamo Masih, i.e. respondent No.4 and Satpal son of Ram Chand, i.e. the petitioner were received. Thereafter, character verifications of both the candidates were got done and their *inter se* merits were evaluated. The Tehsildar, Gurdaspur and also SDM-cum-Assistant Collector Ist Grade, Gurdaspur with the report of the Tehsildar, recommended the name of Pawan Masih i.e. respondent No.4 to the Collector for the post of Lambardar. Both the candidates were personally heard. It was found that the petitioner was 46 years of age and matric by qualification and so far as respondent No.4 is concerned, he was found to be 33 years of age and by qualification, he was 8th pass. The Collector on the overall evaluation of merits and demerits of both the candidates, found the petitioner, namely, Satpal to be the most suitable candidate and thus,

appointed him as the Lambardar (SC category) of the village vide his order dated 07.06.2017. Aggrieved by the same, respondent No.4, namely, Pawan Masih challenged the same by way of filing an appeal before the learned Commissioner, Jalandhar Division, Jalandhar. On hearing both the sides, the Commissioner found the appointment made by the District Collector perverse and thus remanded the case for decision afresh vide his order dated 22.09.2021. Aggrieved by the same, the petitioner filed the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, Punjab. Learned Financial Commissioner re-appreciated the evidence on record and heard both the sides. On hearing, learned Financial Commissioner found the order passed by the learned District Collector to be suffering from perversity and thus, upheld the remand order passed by the learned Commissioner by dismissing the revision petition filed by the petitioner vide his order dated 17.10.2022. Hence, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that on finding the petitioner to be more suitable candidate, he was appointed as the Lambardar of the village. He submits that appointment was for the Scheduled category and respondent No.4 belongs to Christian community. He submits that as per Rule 19-B of the Punjab Land Revenue Rules, respondent No.4 could have been appointed as Additional Lambardar, if the population of the Christian community in the village would have been more than 100. However, as there was already a

Lambardar from the Christian community, thus the petitioner was rightly appointed as the Lambardar of the Schedule caste category. He submits that the learned Commissioner has fallen in error in setting aside the well reasoned order passed by the District Collector and the same was illegally upheld by the learned Financial Commissioner. He submits that the petitioner was Sarbara Lambardar being son of deceased Lambardar. He also submits that the petitioner was more qualified than respondent No.4. He submits that though respondent No.4 had submitted that he was 8th pass, however, there was no record produced regarding his qualification. He submits that respondent No.4 admittedly belongs to Christian community and he did not fall in the SC category, hence, he was rightly rejected by the learned District Collector for the appointment to the post of SC category Lambardar. He submits that on appointment of the petitioner as the Lambardar, he was issued the "Sanad of Lambardar (SC)", but the Appellate and Revisional Court being failed to appreciate the same and thus, drew a wrong conclusion in setting aside the well reasoned order passed by the Collector. He submits that as per the law settled, the choice of the Collector can be interfered with by the Appellate Court only in case where the perversity is found. However, there being no perversity in the order passed by the Collector, the view taken by both the Appellate and Revisional Court is totally against the settled proposition of law. He submits that in view of the overall facts and circumstances, the impugned orders being unsustainable in the eyes of law, deserve to be set aside by upholding the order passed by the District Collector dated 07.06.2017.

Per contra, learned counsel appearing on behalf of the caveator/respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He has submitted that evidently respondent No.4 was younger in age than the petitioner and he was 8th pass. He submits that the petitioner was appointed as Lambardar by giving him benefit of the hereditary claim, which is totally against the law settled. He submits that respondent No.4 has been rejected by the learned Collector on the ground that he belong to Christian community and does not belong to SC category, hence, he could not be appointed as SC Lambardar. He submits that finding of the learned Collector is totally illegal as for the reason that the respondent No.4 is belonging to Christian community, could not have been the only ground for his rejection. He has submitted that as per Rule 19-B of the Punjab Land Revenue Rules, respondent No.4 was duly eligible for appointment of SC category Lambardar and thus, the order passed by the learned District Collector was totally unsustainable in the eyes of law and hence, the same has been rightly rejected by the learned Commissioner, which has been rightly upheld by the learned Financial Commissioner. He submits that the present petition being devoid of any merit, deserves to be dismissed.

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

After hearing learned counsel for the parties and perusing the record, it is apparent that respondent No.4 was younger in age than the petitioner. He belongs to the Christian community but as per the mandate

of Rule 19-B of the Punjab Land Revenue Rules, he was eligible for the appointment of SC Lambardar. However, on perusal of the reasoning given by the Collector, it is apparent that respondent No.4 was held to be ineligible for his appointment of SC Lambardar as he did not belong to SC category, thus the findings of the Collector found to be suffering from perversity and hence, has been rightly set aside by the learned Commissioner by remanding the case for decision afresh. The Learned Financial Commissioner has also upheld the order of remand passed by the Commissioner and thus, the case was remanded to the Collector for decision afresh.

Hence, in the considered opinion of this Court, the order passed by the District Collector dated 07.06.2017 being suffering from perversity, has been rightly set aside. Hence, the impugned order passed by the learned Commissioner dated 22.09.2021 as well as learned Financial Commissioner dated 17.10.2022 suffer from no infirmity. Thus, the present petition being devoid of any merit is hereby dismissed. However, the District Collector, Gurdaspur 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

19.10.2023

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