

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

CWP-24167-2023

Date of decision : 20.10.2023

Gurmej Singh

.....Petitioner

versus

Financial Commissioner (Appeals), Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Pal Singh Rehan, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the impugned order dated 31.07.2023 (Annexure P-4) passed by respondent No.1-Financial Commissioner (Appeals), Punjab in Review Application No.14 of 2022 in ROR No.368 of 2020 titled as Paramjit Kaur Vs. Gurmej Singh whereby the order dated 13.09.2021 (Annexure P-3) passed in ROR No.368 of 2020 titled as Paramjit Kaur Vs. Gurmej Singh has been reviewed/modified and appointment of the petitioner as Lambardar of Village Dhamrai, Tehsil Dina Nagar, District Gurdaspur has been set aside by quashing the order dated 09.11.2017 (Annexure P-1) passed by District Collector, Gurdaspur and order dated 16.11.2020 (Annexure P-2) passed by the Commissioner, Jalandhar Division.

Adumbrated facts of the case are that after the demise of the previous Lambardar of Village Dhamrai, Tehsil Dina Nagar, District Gurdaspur, approval for the initiation of the appointment of new Lambardar was granted by the District Collector vide his order dated 25.08.2014. Thereafter, *mustri munadi* was conducted in the Village for

inviting the applications from the eligible candidates. In pursuance to the same, Gurmej Singh (petitioner) and Balwant Singh submitted their applications within the stipulated time. Their character verification was conducted and applicants namely, Gurmej Singh and Paramjit Kaur (respondent No.3) appeared before the Collector. It was found that the petitioner was about 38/39 years of age and 12th pass. Besides this, he owned land measuring 12 acres in the Village. On the other hand, Paramjit Kaur was found to be of about 50/51 years of age and 10th class pass. It was found that her mother was earlier Lambardar and on account of death in the family, she could not submit her application within the stipulated period. The *inter se* merits of the applicants were examined. The application filed by respondent No.3 was not considered by the Collector as she appeared after 1 ½ years from the date of initiation of the process. Thus, the Collector found Gurmej Singh i.e. petitioner as the most suitable candidate and hence, appointed him as the Lambardar of the Village vide order dated 09.11.2017. Aggrieved by the same, respondent No.3 filed an appeal before the Commissioner, Jalandhar Division Jalandhar. Learned Commissioner, heard both the sides, appreciated the record and finding no merit in the appeal filed by respondent No.3, he dismissed the same vide order dated 16.11.2020 and thus, upheld the order passed by the Collector dated 09.11.2017. Respondent No.3 not being satisfied with the same, filed a revision petition under Section 16(1) of Punjab Revenue Act, 1887 before the learned Financial Commissioner, Chandigarh, however, learned Financial Commissioner finding no merit in the same dismissed the revision petition vide his order dated 13.09.2021. However, respondent No.3 still not satisfied, filed a review

petition against the order dated 13.09.2021 before the learned Financial Commissioner. However, learned Financial Commissioner heard both the sides and appreciated the record. On hearing both the sides, he found merits in the review petition and accepted the same by remanding the case to the Collector for a decision afresh vide impugned order dated 31.07.2023. Hence, aggrieved by the same, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on the death of earlier Lambardar, the applications were invited from the eligible candidates. He submitted that the petitioner duly applied for the same. He has submitted that respondent No.3 did not apply for the appointment of Lambardar within the stipulated time and thus, her application was rightly rejected. He submits that finding the petitioner more meritorious, he was duly appointed as Lambardar by the Collector vide his order dated 09.11.2017. He submits that aggrieved by the same, respondent No.3 filed an appeal before the Commissioner which was also rightly dismissed by the Commissioner. He has submitted that even the revision filed by the petitioner before the learned Financial Commissioner was also dismissed by the Financial Commissioner vide order dated 13.09.2021. He submits that the well reasoned order passed by the Collector was upheld upto the Court of Financial Commissioner. He has submitted that respondent No.3 thereafter filed the review application wherein learned Financial Commissioner has illegally accepted the review petition filed by respondent No.3 by illegally setting aside his earlier well reasoned order. He has submitted that the petitioner is younger in age than respondent No.3 and more qualified than her. He has

submitted that respondent No.3 did not apply within the stipulated time and hence, her application was rightly rejected. Even otherwise, petitioner being younger in age and more qualified than respondent No.3 is obviously more meritorious and thus, the view taken by the Collector was rightly upheld by the Appellate and Revisional Court. He has submitted that as per the law settled the order passed by the Collector cannot be interfered unless and until the same suffers from illegality. He has submitted that there was no ground available with the Financial Commissioner to review his order dated 13.07.2021. He further submits that though the petitioner was involved in a criminal case, he she was acquitted by the trial Court vide order dated 05.10.2001. He submits that the case pertained to the year 1997 and once the petitioner has been acquitted in the same by the trial Court, the view taken by learned Financial Commissioner in accepting the review petition filed by respondent No.3 is totally unsustainable in the eyes of law.

Heard. As evident from the arguments advanced by counsel for the petitioner and the record available, petitioner was appointed by the Collector which was upheld by the Appellate and Revisional Court. The application filed by respondent No.3 was rejected as the same was not filed within the stipulated time. However, in the review application filed by respondent No.3, it has come on record that the petitioner was involved in a criminal case for the offence under Sections 323, 324, 326, 148, 149 of IPC. He has submitted that though he was acquitted by the trial Court, however, the stigma regarding the same still remained there. Perusal of the order passed by the Collector would show that there was no discussion regarding the same. Though it has been observed that

respondent No.3 filed the application beyond the stipulated time, however, in the facts and circumstances, when the petitioner admittedly was involved in criminal case, the remand order for passing a fresh order cannot be said to be against the interest of justice. As per Rule 15 of the Punjab Land Revenue Rules, 1909, the Lambardar is the headman of the Village and his reputation and influence in the village is of prime consideration. However, the order passed by the Collector is silent regarding the same and hence, this Court finds no infirmity in the order passed by the Financial Commissioner in remanding the case for a decision afresh.

In the judgment titled as *Jatinder Singh Vs. Financial Commissioner (Appeals), Punjab and others, 2021(1) RCR (Civil) 687* it has been held that endeavour of revenue authorities should be to appoint a person of clean integrity and image and in *Gurdev Singh Vs. Financial Commissioner, Punjab and others, 2021(1) Law Herald 870* it has been held that every appointing authority is supposed/required to select candidates having clean antecedents and image and has to be all more cautious and vigilant while selecting candidates for public offices.

Thus, the petition being devoid of any merits is hereby dismissed. However, keeping in view the facts and circumstances of the present case, learned Collector is directed to decide the case afresh expeditiously preferably within three months from the date of receipt of certified copy of this order.

20.10.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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