

235 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-38113-2018

Date of decision : 16.08.2023

Jagjit Singh

.....Petitioner

versus

The Financial Commissioner, Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. RVS Chugh, Advocate
for the petitioner.Mr. Arun William, AAG, Punjab
for respondents No.1 to 3.Mr. Anureet S. Sidhu, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 24.02.2015 passed by learned Financial Commissioner (Revenue) Punjab, vide which the same has proceeded to dismiss the revision petition filed by the petitioner against the wrong and illegal order dated 15.01.2014 passed by learned Commissioner Faridkot Division, Faridkot whereby the appeal against order, passed by District Collector Bathinda in File No.100/Lambardari dated 05.01.2012 has been wrongly and illegally dismissed.

Adumbrated facts of the case that on account of death of Sh. Bachittar Singh Lambardar of Village Nathana, the post of Lambardar fell vacant and hence, the process for the appointment of new Lambardar was initiated and the *mustri munadi* was conducted in the Village in accordance with law. In pursuance to the same, applications were received from Darshan Singh son of Karnail Singh, Gurbansh Singh son of Swaran

Singh, Jaspreet Singh son of Amarjit Singh and Jagjit Singh son of Babu Singh. On conducting the analysis of the *inter se* merits of the candidates and the character verification, Tehsildar Nathana recommended the name of Jaspreet Singh i.e. respondent No.4 for the appointment of Lambardar. The Collector Bathinda on appreciation of the candidature of the applicants and comparing their *inter se* merits, finally appointed Jaspreet Singh as Lambardar of the Village vide his order dated 05.01.2012. Aggrieved by the same, petitioner filed an appeal before the Commissioner, Faridkot Division, Faidkot. However, finding no merit in the same, the appeal was dismissed by the Commissioner, vide impugned order dated 15.01.2014. Petitioner being aggrieved, challenged the same before the learned Financial Commissioner by way of filing the revision petition under Section 16 of the Punjab Land Revenue Act, 1887. However, learned Financial Commissioner found no merit in the same and thus, dismissed the revision vide impugned order dated 24.02.2015. Thus, the Financial Commissioner upheld the order passed by the Collector and that of the Commissioner dated 05.01.2012 and 15.01.2014. Aggrieved by the concurrent findings of the authorities, the petitioner is before this Court by way of present petition.

Learned counsel for the petitioner has vehemently contended that the impugned orders being against the settled proposition of law deserve to be *set aside*. He submits that in pursuance to the *mustri munadi* conducted, four candidates including the petitioner applied for the post. He submits that the petitioner and respondent No.4 were finally in the fray. He has submitted that petitioner was 54 years of age and had passed B.A. Besides this, he has 4½ acres of land in the Village Nathana, 1 acre of land in Village Puhla and 1 acre of land in Village Dhelwan and thus, total 6½ acres of land. He submits that as per the character verification report,

petitioner had no criminal antecedents. He submits that on the other hand respondent No.4 was 32 years of age and had studied only upto 8th class. Besides this, he has 4¼ acres of land in the Village Nathana and 1¼ acres of land in Village Mahraj and thus, total 5½ acres of land. He submits that it is evident that the petitioner was more mature and more educated than respondent No.4. He further submits that petitioner is the grandson of deceased Lambardar and he had been Sarbarha Lambardar for his grandfather for about 1½ year. He has submitted that the Collector has failed to appreciate the same and thus, drawn a wrong conclusion in appointing respondent No.4 as Lambardar. Learned Commissioner and learned Financial Commissioner have also fallen in error in not appreciating the facts and circumstances of the case and the law settled and thus, have taken the decision which is unsustainable in the eyes of law. He has also submitted that respondent No.4 is not the resident of the village. He has further submitted that the petitioner has a hereditary claim which has been ignored by the Collector and the higher authorities. He has relied upon the judgment titled as **Jasveer Singh Vs. Sukhwinder Singh, 2002(3) RCR (Civil) 445** and **Kuldeep Singh Vs. Sarabjit Singh, 1997(4) RCR (Civil) 46.**

Learned counsel for respondent No.4 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that in pursuance to *mustri munadi*, various candidates applied however, petitioner and respondent No.4 remained in fray. He submits that on comparison of the *inter se* merits, it is evident that respondent No.4 is much younger in age than the petitioner. Besides this, he submits that even if respondent No.4 is only 8th pass, the same does not earn any disqualification for respondent No.4. He submits that respondent No.4 is very much resident of the same village and the argument raised by counsel for the petitioner regarding respondent No.4

of not being resident of the village is without any evidence

on record. He submits that respondent No.4 was the choice of the Collector which has been duly upheld by both the Appellate and Revisional Authority. It is submitted that choice of the collector cannot be interfered by the higher authorities in a casual manner unless the same suffers from any patent illegality. However, in the facts and circumstances of the case, there is no illegality or perversity in exercising its jurisdiction by the authorities in the appointment of respondent No.4. He relies upon the judgment of *Sukhjinder Pal Singh Vs. State of Punjab and others, 2016(3)R.C.R. (Civil)725.* He submits that the petition being devoid of any merits deserves to be dismissed.

Heard. Apparently, as per facts of the case, on death of Sh. Bachittar Singh Lambardar of Village Nathana, the post of Lambardar fell vacant and hence, the process for the appointment of new Lambardar was initiated and the *mustri munadi* was got conducted in the Village. In pursuance to the same, applications were received from Darshan Singh son of Karnail Singh, Gurbansh Singh son of Swaran Singh, Jaspreet Singh son of Amarjit Singh and Jagjit Singh son of Babu Singh, out of which, petitioner and respondent No.4 were finally in the fray. On comparison of their *inter se* merits, it is evident that the petitioner was 54 years of age and had passed B.A. Besides this, he had 4½ acres of land in the Village Nathana, 1 acre of land in Village Puhla and 1 acre of land in Village Dhelwan and thus, total 6½ acres of land whereas, respondent No.4 was 32 years of age and had studied only upto 8th class. Besides this, he had 4¼ acres of land in the Village Nathana and 1¼ acres of land in Village Mahraj and thus, total 5½ acres of land. Besides this, respondent No.4 was the grandson of the deceased Lambardar. On comparison of the *inter se* merits, it was found that respondent No.4 was younger in age was 8th pass. Even if

the respondent No.4 was less qualified than the petitioner, he was found to be more suitable by the Collector. It was the satisfaction of the Collector who found respondent No.4 to be the most suitable for the post of Lambardar, which should be respected.

As per the settled proposition of law, the Hon'ble Supreme Court in the judgment titled as **Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757** has held that the candidate who is younger in age should be given preference.

Besides this, 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.

In view of the overall facts and circumstances of the case on the anvil of the law settled, this Court does not find any infirmity in the impugned orders passed by the Collector, Appellate and Revisional Authority and thus, the petition being devoid of any merits is hereby dismissed.

16.08.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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