

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

CWP-24825-2023

Date of Decision: 06.11.2023

Raj Pal

..... Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vineet Chaudhary, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 16.10.2023 (Annexure P-8) passed by respondent No.1 vide which the matter has been remanded to respondent No.4 to reconsider the candidatures of the petitioner and respondent No.5 for the post of Lambardar (BC Category) of village Tabra, Tehsil Pehowa, District Kurukshetra.

Adumbrated facts of the case are that on account of death of Daulat Ram, earlier Lambardar of the village Tabra Hadbast No.322, Tehsil Pehowa, procedure for the appointment of new BC Lambardar was initiated. *Mushtari Munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the same applications were received from Rajpal (petitioner), Ravinder Singh, Ghasitu Ram, Mohan Lal, Surender Kumar, Shishpal and Subhash (respondent No.5). Thereafter, character verifications of all the candidates were conducted. Except Rajpal, Surender and Subhash, other candidates were proceeded *ex parte* and thus, Rajpal (petitioner), Surender and Subhash (respondent No.5) finally remained in the fray. Their inter-se merits were evaluated. Naib Tehsildar, Ismailabad recommended the name of Rajpal for the post of Lambardar. SDO (Civil), Pehowa also recommended the name of Rajpal for the post of

Lambardar. On perusal of the merits of all the candidates, Rajpal (petitioner) was found to be 44 years of age and matric pass. His name was supported by 101 persons of village. Other candidate Surender was found to be 31 years of age and senior secondary passed by qualification. So far candidate Subhash (respondent No.5) is concerned, he was found to be 34 years of age and BA passed by qualification. On evaluation of the inter-se merits, learned Collector observed that Subhash is residing in the Dera in the fields and thus, his candidature was rejected. Resultantly, finding Rajpal (petitioner) most suitable candidate, appointed him as Lambardar of the village vide order dated 08.04.2015 (Annexure P-4). Aggrieved by the same, respondent No.5 filed an appeal before the Commissioner. Surender Kumar also filed another appeal before the Commissioner. The learned Commissioner heard both the sides and re-appreciated the evidence on record. Finding no merit in the appeal filed, the Commissioner dismissed the same vide order dated 22.11.2021 (Annexure P-6). Still aggrieved respondent No.5 assailed both the orders passed by the Collector and Commissioner by way of filing revision petition before the Financial Commissioner. However, learned Financial Commissioner found the impugned orders suffering from perversity and thus, accepted the revision petition filed by respondent No.5 by remanding the case to the Collector for decision afresh vide order dated 16.10.2023 (Annexure P-8). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

It has been vehemently contended by learned counsel for the petitioner that the petitioner was found to be the most meritorious candidate among all the candidates in fray and thus, he was rightly appointed by the

Collector as Lambardar of the Village. He has submitted that in the appeal filed no perversity was found by the Commissioner and thus, the order passed by the Collector was upheld by the Commissioner by dismissing the appeal filed by respondent No.5. He submits that the learned Financial Commissioner has failed to appreciate the same and thus, has illegally remanded the case by setting aside both the orders passed by the Collector and the Commissioner. He has submitted that a detailed enquiry was conducted by Naib Tehsildar, Ismailabad and report dated 23.02.2015 was sent to SDO (Civil), Pehowa. He has submitted that it was found in the enquiry that respondent No.5 was residing in residential Dera in his agricultural land in village Jalbehera, hence, his candidature was rightly rejected by the learned Collector. He has submitted that there is a delay of 109 days in filing the revision petition by respondent No.5 and the learned Financial Commissioner by passing a non-speaking order had set aside the orders passed by the Collector and Commissioner without even condoning the delay. He has submitted that as per law settled, the order passed by the Collector cannot be interfered with by the higher authority unless the same suffers from any perversity, however, there was no perversity in the order passed by the Collector and thus, the learned Financial Commissioner has passed the impugned order without jurisdiction. He has submitted that in view of the overwhelming evidence, it is apparent that the impugned order being unsustainable in the eyes of law, deserves to be set aside.

Heard.

Evidently, on the initiation of the process for the appointment of new BC Lambardar, *mushtri munadi* was conducted and applications were invited from the interested candidates. On perusing the inter-se merits, the petitioner was appointed as Lamardar of the village by the Collector

vide order dated 08.04.2015. The order passed by the Collector was also upheld by the Commissioner while dismissing the appeal filed by respondent No.5. However, both the orders passed by the Collector and Commissioner were set aside by the learned Financial Commissioner vide impugned order dated 16.10.2023 remanding the case to the Collector for decision afresh. It is apparent that on perusal of the inter-se merits of both the petitioner and respondent No.5, respondent No.5 was found to be younger in age than the petitioner and more qualified than that of petitioner. However, candidature of respondent No.5 was rejected on the ground that he resides in Dera in his agricultural fields. There is nothing on record to show that respondent No.5 was not resident of the village. Merely because respondent No.5 was residing in his Dera, would not be sufficient to reject his candidature by considering him to be non-resident of the village. Thus, the view taken by learned Financial Commissioner in remanding the case for a decision afresh meets the ends of justice. Hence, in the considered opinion of this Court, the present petition being devoid of any merit is hereby dismissed.

However, keeping in view the facts and circumstances of the case, the learned Collector is directed to hear both the sides and conclude the proceedings within three months from the date of receipt of certified copy of this order.

06.11.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No