

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

CWP-24859-2023

Date of decision : 06.11.2023

Sunil Kumar

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vikram Singh, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the order dated 28.02.2023 (Annexure P-7) passed by learned Financial Commissioner, Revenue, Haryana i.e. respondent No.1; the order dated 13.05.2019 (Annexure P-6) passed by learned Commissioner, Rohtak Division i.e. respondent No.3 and the order dated 18.12.2018 (Annexure P-5) passed by learned Collector, Jhajjar i.e. respondent No.4 vide which the private respondent has been appointed to the post of Lambardar (Scheduled Caste) by ignoring material facts and the legal principles of law thus, being wrong, illegal and not sustainable in the eyes of law is liable to be set aside.

Adumbrated facts of the case that on the death of earlier Lambardar namely, Inder Singh, post of Scheduled Caste Lambardar fell vacant in the village. Thus, after obtaining permission from the Collector, Jhajjar, fresh process for appointment of new Lambardar was initiated and the *mustri munadi* was conducted in the Village on 27.10.2006 and again

through munadi till 29.06.2007. In pursuance to the same, eight applications were received from (i) Amar Singh, (ii) Lachhman, (iii) Sunil, (iv) Pradeep Kumar, (v) Kashmir, (vi) Mahender, (vii) Satpal Singh and (viii) Rajpal. Their character verification was conducted by the local police. Thereafter due to non-appearance of Kashmir Singh, Amar Singh and Lachhman Singh in the Court, they were proceeded against *ex parte* and candidate Pradeep Kumar withdrew his claim in favour of candidate Satpal Singh. After conducting the necessary formalities, Tehsildar Matanhail recommended the name of Rajpal to be appointed as Lambardar (Scheduled Caste) of the Village. Learned Collector on analysis of *inter se* merits of all the candidates in the fray, appointed Rajpal (respondent No.5) as Lambardar of the Village vide his order dated 31.05.2011. Aggrieved by the same, petitioner filed appeal before the Commissioner, Rohtak Division. On hearing both the sides, learned Commissioner finding merit in the appeal and accepted the appeal vide order dated 02.07.2018 and the matter was remanded to the Collector for re-examination and for verifying the qualification and disqualification of both the applicants and then to make fresh appointment. Again learned Collector vide order dated 18.12.2018 again appointed respondent No.5 Rajpal as Lambardar of the Village which order was again challenged before Commissioner. Still aggrieved, petitioner assailed both the orders passed by Learned Collector and the Commissioner by way of filing the revision before the learned Financial Commissioner, Haryana. However, learned Financial Commissioner heard both the sides, re-appreciated the record and finding no merit in the same, dismissed the revision petition vide order dated 28.02.2023 and thus, has upheld both the orders passed

by the Collector and the Commissioner. Hence, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has submitted before this Court that on conducting the *mustri munadi*, petitioner applied for his appointment as Lambardar. He has submitted that the petitioner was more meritorious than other candidates however, learned Collector failed to appreciate the same and thus, has illegally appointed respondent No.4. He has submitted that for the purpose of comparison of the *inter se* merits of both the petitioner and respondent No.4 same are as under:-

Particulars	Petitioner	Respondent No.4
Education	8 th Pass	10 th Pass
Age (as on 18.12.2018)	42 years	56 years
Influence in Village	Over 100 people supported the petitioner including the Gram Panchayat of Village Matanhail	22 persons of Village
Encroachment	No	Yes
Defaulter	No	Yes. No dues obtained after the application
Character	Good	Good
Relation with deceased Lambardar	No	No
Donation	Yes	No
Family planning	Yes	No
Agriculture Land	19 Kanal 9 Marla	None at the time of application

Learned counsel for the petitioner submits that the petitioner was younger in age than respondent No.4. Besides this, he was supported by about 100 peoples including the Gram Panchayat whereas respondent No.4 was recommended by only 22 persons. He also submits that the petitioner had owned 19 kanal 9 marlas of land whereas respondent No.4

did not own any land. Thus, he submits that the petitioner was more meritorious but the Collector illegally appointed respondent No.4 as Lambardar. He has submitted that learned Appellate Court and Revisional Court again failed to appreciate the same and thus, the order of the Collector has been illegally upheld by the learned Financial Commissioner. He submits that the order passed by the Collector being perverse, the same is unsustainable in the eyes of law. As per law settled, both the Appellate and Revisional Authorities have failed to appreciate the same. He submits that in the overall facts and circumstances of the case and the law settled, the impugned orders being illegal and arbitrary deserve to be *set aside*.

Heard. After hearing counsel for the petitioner and perusing the record, it is evident that petitioner was 42 years of age whereas respondent No.4 was 56 years of age. On the other hand, petitioner was 8th pass whereas respondent No.4 was matric. However, petitioner owned 19 kanals 09 marlas of land whereas respondent No.4 did not own any land. Learned District Collector on appreciation of the *inter se* merits found respondent No.4 to be more meritorious and thus, appointed him as Lambardar of the Village. There is no denial to the fact that respondent No.4 was elder in age than the petitioner but he was more qualified than the petitioner. Even if respondent No.4 did not own any land, it cannot be denied that the case in question was for the appointment of the SC Lambardar for which the ownership of the land is not a parameter to be considered for appointment of Lambardar.

As per law settled, the Collector is the prime authority for the appointment of Lambardar. The Collector not only appreciates the record

of the candidates but he personally interacts with the candidates. Thereafter, the Collector assess the suitability of the candidate for the post and thus, in the case in hand, the Collector found respondent No.4 more suitable and appointed him as Lambardar of the Village. In the appeal filed, the Commissioner also found no perversity in the order passed by the Collector and similarly, Financial Commissioner also found no infirmity in the appointment and thus, upheld the order passed by the Collector. It is evident that there are concurrent findings in favour of the petitioner.

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.

Thus, on the anvil of the law settled, this Court does not find any perversity in the orders passed by the Collector, Appellate and Revisional Authorities and hence, this petition, being devoid of any merits is hereby dismissed.

06.11.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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