

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

CWP-2941-2018

Date of decision : 02.08.2023

Nek Chand

.....Petitioner

versus

Financial Commissioner Revenue Punjab Chandigarh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. N.S. Khandhola, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Mr. S.S. Rangi, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the order dated 08.09.2010 passed by respondent No.3, order dated 10.12.2013 passed by respondent No.2 and order dated 11.11.2017 passed by respondent No.1.

Learned counsel for the petitioner has submitted that after the death of Suba Singh Lambardar of Village Fatehpur Garhi, Tehsil Rajpura, the post of Lambardar fell vacant and thus, the process for the appointment of new Lambardar was initiated and the proclamation was made in the Village. Two candidates namely, Nek Chand (petitioner) and Gurdeep Singh (respondent No.4) were finally in fray. Their *inter se* merits were compared and on comparing *inter se* merits of both, it was found that Nek Chand was the member of Panchayat. His name was supported by 75 persons. On the other hand Gurdeep Singh was found to

be 48 years of age and was 8th pass. Learned Collector found respondent No.4-Gurdeep Singh was the elected Sarpanch of the Village. However, on complete analysis of the merits of both the candidates i.e. petitioner Nek Chand and respondent No.4 Gurdeep Singh, he observed that though there was nothing against Nek Chand, yet Gurdeep Singh was a better choice and was younger in age, more educated and popular and thus, Gurdeep Singh was appointed as the Lambardar by the District Collector vide impugned order dated 08.09.2010. He submits that petitioner challenged the same by way of filing the appeal under Section 13 of the Punjab Land Revenue Act before learned Commissioner, Patiala. Learned Commissioner however, after hearing both the sides and comparing the record, declined the appeal filed vide his order dated 09.08.2012. Petitioner approached this Court by way of filing CWP-21145-2010 but the same was dismissed by this Court vide order dated 18.10.2012. Aggrieved by the same petitioner filed LPA No.67 of 2013 which was disposed of by this Court by directing the Commissioner Patiala to decide the revision afresh in accordance with law vide its order dated 06.05.2013. Resultantly, learned Divisional Commissioner, Patiala heard the case afresh however, after hearing both the sides, he dismissed the appeal vide his impugned order dated 10.12.2013. Aggrieved by the same, petitioner filed the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner but learned Financial Commissioner found no merit in the revision filed and thus, dismissed the same vide impugned order dated 11.12.2017 and thus, upheld the decision of the Collector and that of the Commissioner. He has relied upon the judgments titled as **Sukhjinder Pal Singh Vs. State of**

Punjab and others, 2016(3)RCR (Civil) 725 and Naib Singh Vs. Financial Commissioner Haryana and others, 2020(3) PLR 301.

Learned counsel for the petitioner has invited the attention of this Court to the *inter se* merits of both the petitioner and that of the respondent No.4 which are as follows:-

Sr. No.	Name	Gurdeep Singh	Nek Chand
1	Education	8 th pass	5 th pass
2	Age	48 years	37 years
3	Land ownership	13 Kanals	32 Kanals
4	Experience	Present Sarpanch	No experience
5	Residence	Live in Village	Live in Village

Learned counsel for the petitioner has submitted that it is evident that the petitioner was 37 years of age whereas, respondent No.4 was 48 years of age and thus, admittedly the petitioner was younger in age. Besides this, petitioner owned 32 kanals of land whereas, respondent Gurdeep Singh had only 13 Kanals of land in the Village. He submits that learned Collector, learned Appellate and Revisional Authority have failed to appreciate that the petitioner being younger in age and having more land was more suitable for the post of Lambardar and thus, the impugned orders of the Collector and that of the Appellate and Revisional Authority suffer from patent illegality. He has also submitted that the petitioner had approached this Court by way of filing CWP-21145-2010 which was dismissed by this Court vide order dated 18.10.2012 and against the same, the LPA No.67 of 2013 was filed. Learned counsel submits that the learned Commissioner did not decide the case as per directions given by this Court vide order dated 06.05.2013 passed in the said LPA.

Learned counsel for respondent No.4 has vehemently opposed the submissions made by counsel for the petitioner. From the perusal of the *inter se* merits of both the petitioner and respondent No.4, it is evident that respondent No.4 was more qualified than the petitioner. Besides this, he was the Sarpanch of the Village and thus, had a vast experience as well. He submits that the difference in age of both the petitioner and respondent No.4 is only marginal. Besides this, the land holding of the petitioner being more than that of the respondent was no ground for rejection of the candidature of respondent No.4 when he was otherwise more competent than the petitioner. He submits that as per law settled, the respondent was the choice of the Collector who found him most suitable candidate and thus, as per law settled, the choice of Collector should not be *set aside* in a cavalier manner.

Heard.

Evidently, after the death of Suba Singh, the process of the appointment of Lambardar was initiated. On commencement of procedure for the appointment *mustri munadi* was conducted and the applications from seven candidates were received. Their candidature was appreciated and on assessment of the same, respondent No.4 was found to be more suitable for the post of Lambardar. Though the petitioner was younger in age and owned more land than respondent No.4, however, in the overall assessment, as respondent No.4 was the sitting Sarpanch as well, learned Collector found him more suitable. There was nothing adverse found against the respondent. Thus, he was appointed by the Collector vide order dated 08.09.2010.

In the appeal filed by the petitioner, the case was reheard on merits, however finding no illegality in the order of the Collector, the appeal was dismissed. Besides this, the petitioner filed revision petition wherein the candidature of petitioner and respondent No.4 was again appreciated but no perversity was found in the same. In all its humility there is no denial to the judgment relied upon by the petitioner, however, in the facts and circumstances of the present case, the same are distinguishable.

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, in the facts and circumstances of this case, this Court does not find any perversity in the decision arrived at by the Collector, Appellate and the Revisional Authority and thus, the order not being suffering from any perversity is upheld and the writ petition being devoid of any merits is hereby dismissed.

02.08.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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