

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

CWP-26252-2023

Date of Decision: 22.11.2023

Vikram Singh

..... Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.S.Longia, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 19.10.2023 (Annexure P-3) passed by the Financial Commissioner-respondent No.1, against the petitioner and in favour of respondent No.4 for appointment of SC Category Lambardar of village Khrindwa, Tehsil Shahbad, District Kurukshetra with a further direction to respondents No.1 to 3 to continue with the appointment of the petitioner and allowing him to work on said post and in case his appointment is cancelled in term of impugned order Annexure P-3 at any stage then restore the same with all consequential benefits of arrears of pay and allowance with 9% interest.

Adumbrated facts of the case are that on account of death of Ram Kishan, earlier Lambardar of the village Khrindwa, Tehsil Shahbad, District Kurukshetra, procedure for the appointment of new SC Lambardar was initiated. *Mushtari Munadi* was conducted in the village for inviting applications from the interested candidates up to 28.09.2012. In pursuance to the same, seven applications including the petitioner (Vikram Singh) and respondent No.4 (Pardeep Kumar) were received. Applicants, namely,

Sukhwinder and Dharamvir did not come present before the Tehsildar, Shahabad, hence, they were proceed *ex parte*. Applicants, namely, Ashok and Vikram Singh (son of Gurnam Singh) withdrew their applications in favour of the petitioner. Thereafter, character verifications of all the candidates were conducted. Their inter-se merits were evaluated. On completing the entire process, Tehsildar, Shahbad recommended the name of Pardeep Kumar (respondent No.4) for the post of Lambardar. SDO, Shahbad accepting the same also recommended the name of Pardeep Kumar to the Collector. Learned Collector appreciated the inter-se merits of the candidates and found Vikram Singh (petitioner) to be 26 years of age and graduate. On the other hand, Pardeep Kumar (respondent No.4) was found to be 34 years of age and senior secondary pass by qualification. On evaluation of the inter-se merits, the learned Collector found respondent No.4 more suitable for the post and thus, appointed him as Lambardar of the village vide order dated 17.06.2014 (Annexure P-1) and directed to issue Sanad Lambardari in his favour. Aggrieved by the same, the petitioner filed an appeal before the Divisional Commissioner, Ambala Division. Both the parties were heard by the Commissioner. On hearing the parties, the learned Commissioner set aside the order passed by the learned Collector and accepted the appeal filed by the petitioner and thus, appointed him as Lambardar of the village vide order dated 19.10.2021/17.11.2021 (Annexure P-2). Aggrieved by the same, respondent No.4 filed revision petition before the learned Financial Commissioner. Learned Financial Commissioner heard both the sides and set aside the appointment of the petitioner vide order dated 19.10.2023 (Annexure P-3) and directed the Collector to initiate fresh process for the selection of Lambardar and

conclude the same within three months. 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 order passed by the Collector is vitiated on account of no-appreciation of evidence produced by the petitioner on record. He submits that the petitioner produced on record the certificate of education qualification, no dues certificate, blood donation certificate etc. but the same were not appreciated by the learned Collector. He submits that in overall comparison of inter-se merits, the petitioner was more meritorious, however, the learned Collector appointed respondent No.4 ignoring the merits of the petitioner. He submits that the learned Commissioner has rightly appreciated the evidence on record and the law settled and thus, set aside the order passed by the Collector by appointing the petitioner as Lambardar. However, he submits that learned Financial Commissioner as again fallen in error in setting aside the well reasoned order passed by the Commissioner and thus, illegally set aside the same by directing to initiate fresh process for the selection of Lambardar. He has submitted that if respondent No.4 was found to have played any role in getting name of his father included in his BPL ration card, then he would be disqualified from being appointed as Lambardar and thus, should have waited for enquiry to be conducted by the Collector which pending at that time. He submits that thus, the order passed by the learned Financial Commissioner is totally arbitrary and thus, being unsustainable in the eyes of law, deserves to be set aside.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that on the initiation of the process for the

appointment of new SC Lambardar, *mushtri munadi* was conducted and applications were invited from the interested candidates. Finding respondent No.4 as more meritorious, the Collector appointed him as Lambardar of the village, however, in the appeal filed by the petitioner before Commissioner, the same was set aside and the petitioner was appointed as Lambardar of the village. Aggrieved by the same, respondent No.4 filed revision petition before the Financial Commissioner. On hearing both the sides, learned Financial Commissioner has observed that father of respondent No.4 was an employee of Election Department of Haryana Government and posted in Tehsil Election Office at Shahbad, who illegally got included his name in BPL list. His father got prepared a BPL ration card No.455025 in the year 2008. Name of respondent No.4 was also included in his father's family and hence, he also got the BPL benefits. As the same found to have cast a shadow on his candidature, his appointment made by the Collector was found to be perverse. Hence, the appointment made by the Collector was set aside and fresh process was directed to be initiated within three months. From the facts and circumstances on record, the view taken by the learned Financial Commissioner in directing a fresh process to be conducted would meet the ends of justice, where all the parties would be at liberty to participate again and their antecedents would be assessed afresh so as to rule out any foul play made by any candidate. The allegations made against respondent No.4 was not taken into consideration by the learned Collector at the time of his appointment. Thus, this Court does not find any infirmity in the view taken by the learned Financial Commissioner in directing to initiate fresh process for selection of new Lambardar. Thus, finding no merit in the present petition, the same is hereby dismissed.

However, as has already been directed by the learned Financial Commissioner, the process for the selection of Lambardar would be concluded within three months and same would be complied with by the learned Collector.

22.11.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE
:
:
Yes/No
Yes/No