

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

CWP-28044-2023

Date of decision : 14.12.2023

Om Prakash

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Man Mohan, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the impugned orders dated 21.09.2016 (Annexure P-1) passed by the Assistant Collector 1st Grade, Bhiwani dated 09.02.2017 (Annexure P-2) passed by learned Collector, Bhiwani and order dated 16.03.2020 (Annexure P-4) passed by learned Financial Commissioner, Bhiwani vide which private respondent No.6 was appointed as Nambardar of Village Nawan Rajgarh, District Bhiwani. Further prayer has been made for directing respondents not to implement impugned orders dated 21.09.2016 (Annexure P-1) passed by the Assistant Collector 1st Grade, Bhiwani dated 09.02.2017 (Annexure P-2) passed by Learned Collector, Bhiwani and order dated 16.03.2020 (Annexure P-4) passed by learned Financial Commissioner, Bhiwani.

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Sh. Amilal, post of General Category Lambardar fell vacant in Village Rajgarh and thus, the process for appointment of new Lambardar was initiated. The *mustri munadi* was conducted in the Village

for inviting the applications from the interested candidates. Resultantly, five applications were received. Their character verification was carried out by the respondents-authorities. On perusal of their merits and demerits, petitioner-Om Parkash was found to be 61 years of age and he was an ex-serviceman. Besides this, he owned 56 kanals of land and 20 respectables of the Village had testified in his favour. On the other hand, respondent No.6-Pushpa Devi was found to be 38 years of age and her husband had 6½ acres of cultivating land in the village. The Assistant Collector on comparison of the *inter se* merits of the petitioner and respondent No.6, recommended the name of respondent No.6 Smt. Pushpa Devi for the appointment as General Category Lambardar to the Deputy Commissioner, Bhiwani vide his order dated 21.09.2016. The Collector on evaluation of the merits and demerits of the candidates, found respondent No.6-Pushpa Devi to be most meritorious and thus, appointed her to be the Lambardar of the Village vide his order dated 09.02.2017. Aggrieved by the same, petitioner challenged the order by way of filing the appeal before the Commissioner, Rohtak Division. The Commissioner on hearing both the parties, accepted the appeal filed and thus, set aside the order dated 09.02.2017 passed by the Collector by appointing the petitioner as Lambardar of the Village vide his order dated 04.12.2018. Aggrieved by the same, respondent No.6 filed the revision before the Financial Commissioner. Learned Financial Commissioner finding merit in the revision filed, accepted the same vide order dated 16.03.2020 by setting aside the order dated 04.12.2018 passed by the Commissioner and thus, upheld the order passed by the Collector dated 09.02.2017. Aggrieved by the same, petitioner is before this Court by way

of filing the present petition.

Learned counsel for the petitioner has vehemently contended that from perusal of the *inter se* merits of both the petitioner and respondent No.6, it is evident that petitioner was more meritorious. He submits that the petitioner was 61 years of age and by qualification he was 9th pass. He has submitted that he is son of the deceased Lambardar and also served as Sarbrah Lambardar for the deceased Lambardar. He has submitted that he owned 56 kanals of cultivating land. He submits that respondent No.6 remained Sarpanch of the Village and she had embezzled government fund which she later on deposited with interest. He submits that as per report of BDPO, she was found to be having Rs.938.70 cash in hand under the Panchayati Fund Scheme but on 26.04.2016, she deposited total amount of Rs.1,185/- with 21% interest. He has submitted that respondent No.6 was living in her father-in-law's house who is a defaulter in paying the electricity bill. He has submitted that learned Collector and Financial Commissioner have failed to appreciate the same and thus, illegally appointed her as a Lambardar. He submits that learned Commissioner had rightly appreciated the facts and circumstances of the case and the law settled and thus, has rightly appointed the petitioner as Lambardar of the Village. It is submitted that as per provisions of Rule 15, the petitioner was obviously more meritorious and thus, the view taken by the Collector and learned Financial Commissioner suffer from patent illegality so the same are liable to be set aside by restoring the order of Commissioner, Rohtak Division.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that on evaluation of the inter se merits of both the candidates, petitioner was found to be 61 years of age whereas, respondent No.6 was 38 years of age i.e. much younger than petitioner. She remained Sarpanch of the Village as well. Besides this, it was found that she was awarded by All India Human Rights Association and was awarded with a certificate as well. She was matriculate by her qualification. The allegations regarding embezzlement of Rs.938/- have already been appreciated by the authorities below and it was found that the same were deposited by respondent No.6. There is nothing on record to term this deposit as an embezzled amount. There is no gainsaying that respondent No.6 was much younger in age than the petitioner and more qualified. Besides this, she had the experience of working as Sarpanch of the Village as well. It is a settled law that Collector is the prime authority and choice of the Collector should not be interfered until and unless it suffers from perversity.

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.

Learned commissioner had fallen in error in upsetting the order passed by the Collector however, learned Financial Commissioner on re-appreciating the evidence on record and the law settled had upheld the order of Collector by setting aside the order of Commissioner dated 04.12.2018. In the considered opinion of this Court, this Court do not find any patent illegality in the order passed by the Collector which is duly upheld by the learned Financial Commissioner. Thus, the petition being devoid of any merits is hereby dismissed.

14.12.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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