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

**CWP No.692 of 2019
Date of Decision: 02.05.2024**

Kuljit Singh
..... Petitioner

Versus

State of Punjab and others
..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

Mr. Amandeep Singh Saini, Advocate
for respondent No.5.

RAJESH BHARDWAJ, J.

1. Present writ petition has been filed for quashing the impugned order dated 28.11.2017 (Annexure P-3) whereby the learned Commissioner, Jalandhar Division, Jalandhar had wrongly set aside the well reasoned order dated 20.08.2015 (Annexure P-1) passed by the learned Collector, District Kapurthala and remanded the case back to respondent No.4 for fresh consideration as well as the order dated 27.08.2018 (Annexure P-4) passed by the learned Financial Commissioner, Punjab, Chandigarh whereby the revision petition of

the petitioner was dismissed against the order dated 28.11.2017 (Annexure P-3) passed by the learned Commissioner, Jalandhar Division, Jalandhar. Further prayer has been made for staying the operation of impugned orders passed by the learned Financial Commissioner, Punjab, Chandigarh (respondent No.2) and learned Commissioner, Jalandhar Division, Jalandhar (respondent No.3) during the pendency of present writ petition.

2. Adumbrated facts of the case are that on the death of earlier lambardar, namely, Maan Singh, the post of lambardar in village Raipur Araiyan, Tehsil Bholath, District Kapurthala fell vacant. Thus, the process for appointment of new lambardar was initiated in the village. The proclamation/mustri munadi was conducted in the village for inviting the applications from interested/eligible candidates. In pursuance to the same, 08 applications were received including that of the petitioner, namely, Kuljit Singh and respondent No.5, namely, Kulbir Singh. Their character antecedents were got verified from the concerned police station. On the appreciation of *inter se* merits of both the petitioner and respondent No.5, it was found that the petitioner was about 58 years of age and 10th class pass by qualification. Besides this, he owned 7 kanals of land in the village. On the other hand, respondent No.5 was found to be 52 years of age and 10th class pass by qualification. Besides this, he owned 89 kanals 1 marla of land in the village. The learned Collector on the evaluation of their *inter se* merits, found the petitioner to be more meritorious and suitable, thus appointed him as lambardar of the

village vide his order dated 20.08.2015. Being aggrieved by the same, respondent No.5 filed an appeal before the learned Commissioner. On hearing both the sides, the learned Commissioner found the order passed by the Collector to be perverse and thus, he remanded the case to the Collector for decision afresh after hearing the parties vide order dated 28.11.2017. Being aggrieved by the same, the petitioner filed an appeal before the learned Financial Commissioner. The learned Financial Commissioner heard both the sides and on appreciating the evidence on record, he upheld the remand order passed by the Commissioner by directing the *de novo* proceedings to fill up the post of lambardar by inviting fresh applications vide order dated 27.08.2018. Hence the petitioner is before this Court by way of filing the present writ petition.

3. Learned counsel for the petitioner has vehemently contended before this Court that on the comparison of *inter se* merits of both the candidates, it is apparent that there is no substantial difference in age of both the candidates. So far as the qualification is concerned, both are having same qualification being matric. He submits that on the evaluation of their *inter se* merits, the learned Collector found the petitioner to be more meritorious and thus, rightly appointed him as lambardar of the village. However the learned Commissioner simply on the ground that the petitioner has a political background, illegally set aside the well reasoned order passed by the Collector. He has submitted that news cutting dated 25.09.2015 was presented before the learned Commissioner. Even though the Collector had passed the order

appointing the petitioner on 20.08.2015, he thus submits that the news cutting report, which was presented after the appointment of the petitioner could not have any bearing on the appointment of the petitioner. Thus, the view taken by the learned Commissioner in setting aside the appointment of the petitioner was totally unsustainable in the eyes of law. He submits that the learned Financial Commissioner again failed to appreciate the evidence on record and the law settled thus, he has illegally upheld the order passed by the learned Commissioner. He further submits that as per the law settled, Collector is the prime authority for appointment of the lambardar and his choice cannot be interfered with in a cavalier manner and the same can be interfered with in the situation when the same suffers from patent illegality or perversity.

4. *Per contra*, learned counsel for respondent No.5 has opposed the submissions made by learned counsel for the petitioner. He has submitted that on the evaluation of *inter se* merits of all the candidates, it is apparent that respondent No.5 was younger in age than the petitioner. Besides this he owned more land than that of the petitioner. He submits that the learned Commissioner has set aside the order passed by the Collector only on the ground that there was a news cutting report but the other merits of respondent No.5 were totally ignored by the learned Collector. Thus, the order passed by the Collector being perverse was rightly set aside by the learned Commissioner. However he submits that the learned Financial Commissioner has also re-appreciated the overall facts and circumstances on the anvil of the law settled and thus

rightly upheld the order passed by the learned Commissioner by directing the *de novo* proceedings by inviting fresh applications. He has submitted that there being no perversity in the impugned order passed, the present petition being devoid of any merit deserves to be dismissed.

5. Heard.

6. The Court has heard learned counsel for the parties and perused the record with their able assistance. As evident from the record, the petitioner and respondent No.5 both were matric by qualification whereas respondent No.5 was younger in age than the petitioner. As was further argued by learned counsel for respondent No.5 that his father was an Ex Army Officer and was honored by the President of India and thus, he rendered service to the nation. Hence in view of the provision of Rule 15 of Punjab Land Revenue Rules, respondent No.5 was more meritorious but the same was not taken into consideration by the Collector. The petitioner was contended to be having political background as well.

7. Keeping in view the over all facts and circumstances of the case, the Commissioner found the order passed by the Collector to be perverse, which was further upheld by the learned Financial Commissioner by directing to initiate the *de novo* proceedings by inviting fresh applications. There is no gainsaying that the view taken by the Collector cannot be interfered with in a cavalier manner and the same can be interfered with in case the same found to be perverse and suffering from material illegality.

8. Weighing the facts and circumstances on the case on the anvil of the law settled, this Court does not find any infirmity in the view taken by the learned Commissioner and Financial Commissioner and the same are upheld. Thus, finding no merit in the present petition, the same is hereby rejected. The case is remanded to the Collector with a direction to initiate the *de novo* proceedings by inviting the fresh applications. However the petitioner and respondent No.5 herein would be at liberty to participate in the fresh process to be initiated. Learned Collector would decide the matter within three months from the date of receipt of this order. Till then, the petitioner would continue to work as lambardar if at present he is already working as such.

9. Office is directed to send a copy of the order to the Collector concerned, who on receipt of the same, will proceed further in accordance with law.

10. Disposed of in the above mentioned terms.

(RAJESH BHARDWAJ)
JUDGE

02.05.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No