

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

CWP-1438-2020

Date of Decision: 22.04.2024

Harjinder Singh

..... Petitioner

Versus

Financial Commissioner and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Sunny K. Singla, Advocate, for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

Mr. B.S. Seemar, Advocate for
respondent No.4.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for setting aside the impugned order dated 28.03.2019 (Annexure P-5) passed by respondent No.1, order dated 30.09.2015 (Annexure P-4) passed by respondent No.2 and order dated 06.02.2014 (Annexure P-3) passed by respondent No.3, vide which respondent No.4 has been wrongly appointed as a Lambardar of the village being illegal, arbitrary and are contrary to the settled proposition of law.

2. The present case pertains to the appointment of SC Lambardar of village Jogimajra, Tehsil Payal, District Ludhiana. Adumbrated facts of the case are that on account of death of Inder Singh, earlier Lambardar of the village on 01.01.2004, post of SC Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated on 07.08.2012. *Mushtri Munadi* was conducted in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, six applications were received including the petitioner (Harjinder Singh) and respondent No.4 (Lakhvir Singh). Their character verifications were got conducted. On comparison of their inter-se merits Naib Tehsildar, Maloud,

recommended the name of petitioner for the appointment of Harijan Lambardar and forwarded to the same to the SDM, Payal. Agreeing with the same, learned SDM, Payal also recommended the name of the petitioner for the appointment of Lambardar. On appreciation of their inter-se merits, it was found as under:-

Name	Harjinder Singh	Lakhvir Singh
Age	32 years	42 years
Qualification	BA, B.Ed + Computer Course and training certificate from Artificial insemination	BA
Hereditary claim	Grand son of deceased Lambardar	Nil
Recommendation	Naib Tehsildar, SDM	Nil

3. Learned Collector on evaluation of the inter-se merits and demerits of both the candidates, finding respondent No.4 to be more meritorious candidate appointed him as Lambardar of the village vide order dated 06.02.2014 (Annexure P-3). Aggrieved by the same, the petitioner filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the Divisional Commissioner, Patiala Division, Patiala. Learned Divisional Commissioner after hearing both the sides found no infirmity in the order passed by the learned Collector and thus, dismissed the appeal vide his order dated 30.09.2015 (Annexure P-4). Again aggrieved by the same, the petitioner filed a revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the Financial Commissioner. Both the parties were heard by the Revisional authority, however, finding no infirmity in the orders passed by the Collector and Commissioner, dismissed the revision petition vide his order dated 28.03.2019 (Annexure P-5). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

4. Learned counsel for the petitioner has vehemently contended that on the perusal of the inter-se merits of both the petitioner and respondent No.4, it is evident that the petitioner was younger in age than respondent No.4. Besides this, he was more qualified as well than him. He submits that this is an admitted fact that respondent No.4 was convicted for the offence under Section 138 of the Negotiable Instruments Act by the Court of JMFC, Malerkotla vide order dated 09.02.2015. He submits that though he was later on acquitted on the basis of the compromise on 18.01.2019, however, stigma still remains against him, especially when the petitioner has never faced prosecution in any case. He has submitted that besides this the petitioner is also a grandson of deceased Lambardar. He has submitted that learned District Collector had rejected the merits of the petitioner on the ground that he had given statement that he is working as Teacher in Government Senior Secondary School, Bhogiwal, District Sangrur, but the petitioner never gave any such statement. He has submitted that on the basis of the information sought under RTI Act, it is amply clear that the petitioner was never employed as a Teacher in Government Senior Secondary School and thus, the observation made by learned District Collector is against the facts on record. He has submitted that Naib Tehsildar and SDM both had recommended the name of the petitioner for the appointment of Lambardar finding him more meritorious, however, ignoring the same, learned Collector appointed respondent No.4 as Lambardar of the village, which is totally against the law settled. He has relied upon the judgment of Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757, wherein, it has been held that for the appointment of Lambardar, age of the candidate is a

relevant factor. He further submits that in view the overall facts and circumstances of the present case and the law settled, the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

5. Per contra, learned counsel for respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that there was no much difference in the age and qualification of both the petitioner and respondent No.4. He has submitted that it was proved from the record that the petitioner was working as Teacher in Government Senior Secondary School and thus, his availability in the village for discharging the duties of Lambardar, was not feasible and hence, respondent No.4 was rightly appointed as Lambardar of the village. It is submitted that though respondent No.4 was convicted under Section 138 of the Negotiable Instruments Act, however, he was acquitted on 18.01.2019. He submits that as per law settled, even if two views are possible, the view taken by learned Collector cannot be interfered with. He has submitted that respondent No.4 is working as a Lambardar of the village since the date of his appointment. It is further submitted that there being no perversity in the order passed by the Collector, which was rightly upheld by the Appellate and Revisional authorities, the petition being devoid of any merit, deserves to be dismissed.

6. After hearing learned counsel for the parties and perusing the record with their able assistance, it is apparent that on the death of earlier Lambardar, process for the appointment of new Lambardar was initiated in the village and applications were invited from the interested and eligible candidates. On receiving the application, inter-se merits of all the candidates were considered. Naib Tehsildar and SDM recommended the name of the petitioner on finding him more suitable and meritorious candidate among all

the candidates in fray. However, learned Collector ignored the same and appointed respondent No.4 as Lambardar of the village. There is no gainsaying that petitioner was younger in age than respondent No.4 and was more qualified as well than him. It is also not under dispute that petitioner had an impeccable record having not faced prosecution for any offence. On the other hand, respondent No.4 was convicted under Section 138 of the Negotiable Instruments Act, though he was acquitted later on the basis of compromise. The observation made by learned Collector that the petitioner was working as a Teacher and thus, his availability was not possible, is also not under dispute. Even if it is established that the petitioner was working as a Teacher, then also the same cannot be a ground for his disqualification as per statutory provisions.

7. As per law settled by Hon'ble Supreme Court in **Mahavir Singh's** case (supra), the candidate younger in age should be given preference for the appointment of Lambardar.

8. The Appellate and Revisional authorities have also failed to appreciate the relevant evidence on record and the law settled. Thus, this Court is of the opinion that merits of both the candidates need to be reconsidered in the light of the material on record and the law settled. The Financial Commissioner in para No. 6 of its order dated 28.03.2019 has mentioned regarding the plea taken by the petitioner against respondent No.4 with regard to cheque bounce that it was a false case and respondent No.4 was acquitted of charges vide judgment dated 18.01.2019 by the Additional Sessions Judge, Sangrur. Hence, finding the impugned orders unsustainable in the eyes of law, the same are set aside and the case is remanded to learned Collector for decision afresh after hearing both the sides and perusing the record, expeditiously preferably within a period of

three months from the date of receipt of copy of this order. It is being clarified that respondent No.4 who is stated to be working as Lambardar of the village as on date, would continue to work as Lambardar till the fresh order is passed by the Collector.

9. Registry is directed to send a copy of this order to the Collector concerned forthwith, who on receipt of the same would issue notice to the parties for appearance and proceed with the matter in accordance with law.

10. The petition stands disposed of.

22.04.2024

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE