

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

CWP-1247-2024

Date of decision : 19.01.2024

Gamdoor Singh

.....Petitioner

versus

Financial Commissioner (Appeals), Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. R.S. Chauhan, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 23.11.2023 (Annexure P-4) passed by respondent No.1 and order dated 25.03.2022 (Annexure P-2) passed by respondent No.2 whereby the well-reasoned order dated 09.12.2020 (Annexure P-1) passed by respondent No.3 i.e. District Collector, Mansa, whereby the petitioner was appointed as Lambardar of Village Rampur Mander, Tehsil Budhlada, District Mansa, has wrongly been set aside and thereby respondent No.4 was appointed as Lambardar of the Village Rampur Mander, Tehsil Budhlada, District Mansa in violation to the mandate of law as laid down by this Court whereby it has been held that the choice of the District Collector in the matter of appointment of Lambardar shall be considered to be final unless and until the same suffers from any patent illegality or perversity and thus, the impugned orders dated 23.11.2023 and 25.03.2022 passed by respondents No.1 and 2 are liable to be *set*

aside being without jurisdiction, illegal and contrary to the provisions of Punjab Land Revenue Act as the Appellate Authority has no jurisdiction to appoint the Lambardar of the said village as the said power is vested with the District Collector as per the provisions of Punjab Land Revenue Act. Further prayer has been made that the operation and implementation of the impugned orders dated 23.11.2023 and 25.03.2022 passed by respondents No.1 and 2 may kindly be stayed as the petitioner is appointed as a Lambardar and the identity card dated 18.02.2021 has been issued to the petitioner (Annexure P-5).

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Bogha Singh on 09.01.2019, the post of Lambardar fell vacant in the Village. Hence, process for the appointment of the new Lambardar was initiated. The proclamation was made to invite the applications from the eligible candidates. In pursuance to the same, five applications were received including that of the petitioner and respondent No.4. Their character antecedents were verified. On comparison of the *inter se* merits of the candidates, the Assistant Collector 2nd Grade (Tehsildar), Budhlada recommended the name of Gamdoor Singh i.e. the petitioner for the post of Lambardar to the Assistant Collector Ist Grade (Sub-Divisional Magistrate), Budhlada. In concurrence with the same, the Assistant Collector 2nd Grade also recommended the name of petitioner to the Collector vide his report dated 19.02.2022. Learned Collector appreciated the merits and demerits of all the candidates and it was found that the petitioner was 45 years of age and he was 8th pass and physically fit. On the other hand respondent No.4-Kuldeep Singh was 30 years of age and was 10+2 pass. The Collector while exercising his power

under Rule 15 of the Punjab Land Revenue Rules, 1909, appointed the petitioner as Lambardar of the Village finding him the most suitable candidate vide his order dated 09.12.2020. Aggrieved by the same, respondent No.4 filed appeal before learned Commissioner, Faridkot Division, Faridkot. Learned Commissioner on hearing both the sides, *set aside* the order passed by the Collector and thus, appointed respondent No.4 as Lambardar of the Village vide his order dated 25.03.2022. Being aggrieved, petitioner filed the ROA No.18 of 2022 before learned Financial Commissioner assailing the order passed by the Commissioner. Learned Financial Commissioner on hearing both the sides, found no merit in the appeal filed by the petitioner and thus, dismissed the same vide his order dated 23.11.2023 and thus, upheld the order passed by the Commissioner. Aggrieved by the same, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that the petitioner applied for the appointment of Lambardar. In pursuance to the same, proclamation was made. It has been submitted by counsel for the petitioner that the petitioner was having 18 kanals 15 marlas of land which was more than that of respondent No.4. He submits that finding the petitioner to be most suitable candidate, he was appointed as Lambardar by the Collector who is the prime authority in appointing the Lambardar. It is submitted that in the appeal filed, learned Commissioner has totally exceeded his jurisdiction by setting aside the well reasoned order passed by the Collector and thus, illegally appointed respondent No.4. He has submitted that learned Commissioner has *set aside* the order passed by the Collector on the ground that respondent

No.4 was related to the deceased Lambardar. He has submitted that in the application filed, respondent No.4 has never mentioned any such thing regarding his relationship with the deceased Lambardar. It is submitted that even otherwise as per the settled law, the hereditary claim is no ground for the appointment of the Lambardar but the learned Commissioner miserably failed to appreciate the same and thus, *set aside* the order passed by the Collector and appointed respondent No.4 which is totally unsustainable in the eyes of law. He submits that in the appeal filed by the petitioner, learned Financial Commissioner has also failed to appreciate the law settled and thus, illegally upheld the order passed by the Commissioner who had set aside the order passed by the Collector. He submits that the impugned order passed by respondents No.1 and 2 being unsustainable deserves to be *set aside* by upholding the order passed by the Collector.

Per contra, learned counsel for the respondent No.4 has opposed the submissions made by counsel for the petitioner. He has submitted that respondent No.4 on the bare comparison of the *inter se* merits of the candidates was younger in age than the petitioner and was more qualified than him. He has submitted that as per the settled proposition of law, the candidate who is younger in age deserves to be preferred however, learned Collector has miserably failed to appreciate the same and thus, illegally appointed the petitioner as Lambardar of the Village. He submits that learned Commissioner has rightly *set aside* the order passed by the Collector which order has rightly been upheld by learned Financial Commissioner. He submits that in the facts and circumstances, the petition being devoid of any merits deserves to be

dismissed.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that on comparison of the *inter se* merits of both the candidates, respondent No.4 was younger in age and more qualified than the petitioner. However, learned Collector on analysis of the *inter se* merits of both the candidates, appointed the petitioner as Lambardar of the Village. However, learned Commissioner *set aside* the same by not agreeing with the choice made by the Collector and appointed respondent No.4 as Lambardar of the Village. The view taken by the Commissioner was upheld by the learned Financial Commissioner as well. There is no gainsaying that the Collector is the prime authority in making the appointment of the Lambardar. However, the Commissioner instead of remanding the case back to the Collector appointed respondent No.4 which was further upheld by the learned Financial Commissioner as well.

In the facts and circumstances of the case, this Court is of the view that if the Commissioner was not agreeing with the opinion of the Collector, the case should have been remanded to the Collector for decision afresh by taking into consideration the *inter se* merits of both the candidates. However, instead Commissioner appointed respondent No.4 finding him the meritorious candidate. This Court finds that the view taken by the Commissioner and that of learned Financial Commissioner is unsustainable in the eyes of law and hence, both the orders passed by the authorities below are *set aside*. Resultantly, the case is remanded to the Collector for decision afresh in accordance with law. The Collector would hear both the candidates afresh and evaluate the merits and demerits of both the candidates and then would pass fresh order for appointment of

Lambardar within three months from the receipt of copy of this order.
Office is directed to send copy of this order to the Collector concerned forthwith who on receipt of the same will issue notice for appearance to both the parties.

Disposed of in above terms.

19.01.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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