

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

CWP-3534-2020

Date of decision : 23.01.2024

Ram Lubhaya

.....Petitioner

versus

Financial Commissioner and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Naveen Batra, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Ranjit Saini, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing/setting aside the order dated 09.09.2019 (Annexure P-4) passed by learned Financial Commissioner, Punjab vide which order dated 21.08.2017 (Annexure P-3) passed by learned Commissioner, Jalandhar Division, Jalandhar and order dated 30.09.2014 (Annexure P-1) passed by the District Collector, Hoshiarpur whereby petitioner has been appointed as Lambardar, has been set aside and the matter has been remanded back with direction to conduct fresh proclamation, is wrong, illegal and against the settled principle of law, being perverse liable to be set aside by upholding the order passed by learned District Collector.

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Isher Singh on 15.05.2011, the process for the appointment of new Lambardar was initiated. The proclamation was made in the village for inviting the applications from the willing and eligible

persons. In response to the same, four applications were received including that of the petitioner and respondent No.4. On receiving the applications from the candidates, their character antecedents were verified. However, as candidates namely, Malkit Singh and Harnek Singh withdrew their name in favour of Jasvir Singh, respondent No.4 and thus, only petitioner and respondent No.4 remained in the fray. On appreciation of the merits of the petitioner, he was found to be 62 years of age and B.A., B.Ed by qualification. Besides this, he was retired Teacher and was getting the pension. Nothing adverse was found against him during the verification. On the other hand, respondent No.4-Jasvir Singh was found to be 42 years of age and he was matriculate by qualification. Besides this, he owned 27 kanals 01 marla of land in the Village. Learned Collector on evaluating the *inter se* merits of both the candidates, found petitioner-Ram Lubhaya to be more suitable for the appointment of Lambardar and thus, appointed him as Lambardar of the Village vide his order dated 30.09.2014. The sannad Lambardari was issued in favour of the petitioner vide order dated 13.11.2014. Aggrieved by the appointment of petitioner as Lambardar, respondent No.4 filed an appeal under Section 13 of the Punjab Land Revenue Act before learned Commissioner, Jalandhar. Learned Commissioner after hearing both the sides and re-appreciating the record, found no merit in the appeal and thus, dismissed the same by affirming the appointment of the petitioner made by the Collector. Thus, the Commissioner, dismissed the appeal vide order dated 21.08.2017. Aggrieved by the same, respondent No.4 filed revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, Punjab. Learned Financial

Commissioner on hearing both the sides, *set aside* both the orders passed by the Collector and the Commissioner and thus, remanded the case to the District Collector, Hoshiarpur with direction to decide it after conducting fresh proclamation for the post of Lambardar vide order dated 09.09.2019. Being aggrieved, the petitioner is before this Court praying for setting aside the impugned orders.

It has been contended by counsel for the petitioner that on evaluation of merits and demerits of both the candidates, petitioner was found to be more meritorious and suitable and thus, he was appointed as Lambardar of the Village. He submits that the petitioner though was elder in age than respondent No.4 however, he was more qualified. It is submitted that the petitioner was retired as a Teacher and was getting the pension as well. He submits that learned Collector on interaction with the candidates in the fray found petitioner to be more suitable. It is submitted that learned Commissioner also found no perversity in the order passed by the Collector and thus, dismissed the appeal filed by respondent No.4. He submits that learned Financial Commissioner failed to appreciate the facts and circumstances of the case and the law settled. He submits that as per the law settled, the choice of the Collector cannot be disturbed in a cavalier manner until and unless it suffers from any perversity. He further submits that learned Financial Commissioner has not only remanded the case for a decision afresh but has also directed to carry out fresh proclamation which is totally unsustainable in the eyes of law. Learned counsel submits that the impugned order passed by the Financial Commissioner being totally against the settled law deserves to be *set aside*.

Per contra, learned counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner. He has submitted that there is no gainsaying that respondent No.4 is younger in age than the petitioner. It is submitted that respondent No.4 is matriculate and owns more land than the petitioner. He has submitted that as per the law settled, the candidate younger in age deserves to be preferred. He submits that the Collector failed to appreciate the settled preposition of the law and thus, the order passed by him was perverse. He has further submitted that learned Commissioner also failed to appreciate the same and thus, illegally dismissed the appeal filed by respondent No.4. It is submitted that learned Financial Commissioner has rightly *set aside* both the perverse orders passed by the Collector and affirmed by the Commissioner and thus, directed respondent No.3 to make afresh appointment after carrying out fresh proclamation.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that on the death of earlier Lambardar, the applications were invited for the appointment of new Lambardar and in pursuance to the same, four candidates namely, Jasvir Singh (respondent No.4), Malkit Singh, Harnek Singh and Ram Lubhaya (petitioner) filed their applications. Out of four candidates, the candidate namely, Malkit Singh and Harnek Singh withdrew their names and the petitioner and respondent No.4 remained in the fray. On comparison of their *inter se* merits, it was found that though the petitioner was elder to respondent No.4 however, he was more qualified being B.A. B.Ed. Besides this, he was retired Teacher. Perusal of the order passed by the Collector would show that the Collector considered the petitioner to be more active and

alert. Thus, the Collector found the petitioner to be the most suitable candidate and hence appointed him as Lambardar. The view taken by the Collector was affirmed by the Commissioner however, learned Financial Commissioner has *set aside*, both the well reasoned orders only on the ground that the recommendation of respondent No.4 by the revenue authorities had not been taken into consideration by the Collector. This Court is unable to accept the view taken by the Financial Commissioner as the Collector on personal interaction found the petitioner to be more active and alert.

As per the law settled 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.”

Keeping in the facts and circumstance of the case, the impugned order dated 09.09.2019 passed by the Financial Commissioner, Punjab being in contravention to the law settled is hereby *set aside*.
Petition stands allowed.

23.01.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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