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

CWP-3592-2024

Date of decision : 20.03.2024

Sarjeev Vig

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Nischal Chetanya Manchanda, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 03.11.2023 (Annexure P-20) passed by respondent No.1 whereby revision filed by the present respondent No.4 has been accepted and a well reasoned order dated 18.11.2021 (Annexure P-18) passed by respondent No.2 has been set aside as well as quashing the impugned order dated 26.09.2018 (Annexure P-16) passed by learned District Collector, respondent No.4, Karnal whereby respondent No.4 has been appointed as Lambardar of Village Gharaunda. Further prayer has been made for directing the official respondents not to implement the impugned orders mentioned above, during the pendency of the present writ petition as well as directing the respondents to appoint the present petitioner as Lambardar of Village Gharaunda as he is the meritorious candidate than respondent No.4.

Adumbrated facts of the case are that on the death of earlier

Lambardar namely, Pishori Lal (General Category) on 21.12.2013, the

post of Lambardar in the Village Gharaunda, Tehsil Gharaunda, District Karnal fell vacant and thus, the process for the appointment of new Lambardar was initiated. In pursuance to the same, proclamation was made by the Tehsildar-cum-Assistant Collector 2nd Grade, Gharaunda for inviting the applications from the interested candidates. In pursuance to the same, though 10 applications were received, however, on scrutiny, only 03 candidates namely, Pawan Kumar (performa respondent), Sarjiv Vig (petitioner) and Vivek Kumar (respondent No.4) remained in the fray. Their character verification was got conducted from the concerned police station. After hearing all the three candidates, the Assistant Collector 2nd Grade, Gharaunda recommended the name of respondent No.4-Vivek Kumar to the Sub Divisional Magistrate (Civil), Karnal. Agreed with the same, the Sub Divisional Magistrate(Civil) recommended the name of respondent No.4 for the appointment of the Lambardar of the Village. Thereafter, all the three candidates appeared before the Collector. Learned Collector on appreciation of the *inter se* merits of the candidates, found petitioner-Sarjiv Vig to be 51 years of age and BA 2nd year by qualification. Respondent No.4-Vivek Kumar was found to be 39 years of age and 12th class passed. Besides this, he owned 12 kanals 15 marlas of cultivating land in Gharaunda. Applicant-Pawan Kumar was found to be 61 years of age and 12th class passed by qualification. Besides this, he owned 24 kanals 03 marlas of agriculture land. On evaluation of the *inter se* merits of all three candidates, learned Collector found respondent No.4-Vivek Kumar to be the most meritorious and suitable candidate and thus, appointed him as Lambardar of the Village vide his order dated 26.09.2018. Aggrieved by the same, petitioner filed the appeal before the learned Commissioner, Karnal Division. On hearing both the sides,

learned Commissioner accepted the appeal and thus, set aside the order passed by the Collector by remanding the case back to the Collector for a decision afresh vide his order dated 18.11.2021. Aggrieved by the same, respondent No.4 filed the revision petition under Section 16 (1) of the Land Revenue Act before the learned Financial Commissioner. Learned Financial Commissioner on hearing both the sides found the order passed by the Commissioner to be unsustainable in the eyes and law and thus, *set aside* the same by restoring the order passed by the Collector vide impugned order dated 03.11.2023. Thus, being aggrieved, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently contends that on comparison of the *inter se* merits of all the three candidates, petitioner was the most meritorious candidate in the fray. However, the same has been ignored by the learned Collector and thus, he illegally appointed respondent No.4 as Lambardar of the Village. He has submitted that the Tehsildar has made report that as per record of the Office, Pishori Lal, father of the petitioner and respondent No.5 were in unauthorized possession of the Government land. With regard to the same, petition was filed in this Court in which *status quo* was granted. After the death of Pishori Lal, legal heirs of Pishori Lal were in possession of the land in question. It is submitted that Pawan Kumar and the present petitioner are sons of Pishori Lal. He has submitted that by taking into consideration all the documents from the parties, the Sub Divisional Officer (Civil) Gharaunda had made observation that the petitioner had got deposited Rs.44,33,00,000/- in the Small Savings Scheme and he was owner of 66 kanals 14 marlas. He mentioned that as per the report dated 31.05.2016 of the Municipal Committee, Gharaunda, petitioner was in unauthorized

possession and it has been wrongly observed that petitioner was not having residential house in Village Gharaunda whereas he is residing in Karnal. He has submitted that father of the petitioner expired on 21.12.2013 and the petitioner along with respondent No.5 as well as other family members filed an application before Tehsildar Sales Karnal for purchase of land measuring 3 kanals 10 marlas by showing their possession over the land in question for the last 40 years in view of the policy framed by the Government. It is submitted that Assistant Collector 2nd Grade after hearing all the parties had observed that as per report of Food and Supplies Controller, Karnal and Municipal Corporation Karnal, petitioner and respondent No.5 were not residing in Gharaunda. He has submitted that petitioner being BA 2nd year is more qualified than respondent No.4. He submits that petitioner owned 82 kanals 6 marlas land whereas the respondent owns only 12 kanal 15 marlas land only. He submits that learned Collector failed to appreciate the merits of the petitioner that he was more qualified than respondent No.4 and owned more land than him. He submits that the order passed by the Collector dated 26.09.2018 and that by the Financial Commissioner are totally perverse. However, learned Commissioner had rightly passed the order setting aside the order passed by the Collector by remanding the case for a decision afresh.

Heard. On hearing counsel for the petitioner and perusing the record, it is apparent that on comparison of the inter se merits of all the candidates, respondent No.4 was appointed as Lambardar of the Village. However, in the appeal filed, the order was *set aside* and the case was remanded by the learned Commissioner for decision afresh. Besides other inter se merits and demerits of the candidates, the Collector found

petitioner not to be the resident of Village Gharaunda as he was residing in Karnal. Thus, respondent No.4 was appointed as Lambardar. However, from the record of the civil suit filed by respondent No.4, it was found that the petitioner was shown to be the resident of the Karnal. It is apparent that respondent No.4-Vivek Kumar was 12th pass whereas, petitioner was BA 2nd year pass. On perusal of the record, the petitioner was 51 years of age whereas, respondent No.4 was 39 years of age and thus, much younger than the petitioner. Besides this, there was no significant difference in the educational qualification also. The petitioner was also not found to be resident of the Village which disqualified him for the appointment of the Lambardar. The Collector thus, had rightly appointed respondent No.4 which order was restored by the learned Financial Commissioner.

As per the law settled, the order passed by the Collector should not be interfered with until and unless, the same suffers from any perversity and illegality.

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 illegally *set aside* the same which was in violation of the settled principles of law. Hence, this Court does not find any infirmity in the orders passed by the learned Financial Commissioner in restoring the well reasoned order passed by the Collector. Resultantly, there being no merit in the petition, the same is hereby dismissed.

20.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No