

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

CWP-3125-2019

Date of Decision: 30.04.2024

Balbir Singh

..... Petitioner

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Binat Sharma, Advocate, for the petitioner.

Mr. Rajeev K. Takkar, Deputy Advocate General, Punjab.

Mr. Sarabjeet Singh Khaira, Advocate
for respondent No.4.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing the impugned order dated 28.10.2015 (Annexure P-1) passed by learned Financial Commissioner (Appeals), Punjab and order dated 25.04.2017 (Annexure P-3) passed by learned Commissioner, Jalandhar Division, Jalandhar vide which appeal of respondent against the order dated 08.05.2018 (Annexure P-5) of the Collector was allowed which was well reasoned and passed on merit and the respondent was appointed as Lambardar who is less meritorious.

2. Adumbrated facts of the case are that on account of death of Gyan Chand, earlier Lambardar of village Barnala Hadbast No.247, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. Proclamation was made in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, four applications were received from candidates including Balbir Singh (petitioner) and Hari Singh (respondent No.4). Their character

verifications were got done from the concerned Police Station. On comparison of the inter-se merits of all the candidates, the Assistant Collector Grade-II, Gurdaspur recommended the name of respondent No.4 Hari Singh for the appointment of Lambardar to the Sub Divisional Magistrate-cum- Assistant Collector Ist Grade, Gurdaspur. However, SDM dis-agreeing with the same, recommended the name of petitioner Balbir Singh to the Collector. On appreciation of inter-se merits of all the candidates, the petitioner Balbir Singh was found to be 49 years of age and matric pass by qualification and owner of 35 Kanals and 18 marlas of land. On the other hand, respondent No.4 Hari Singh was found to be 58 years of age and BA pass by qualification and also found to be owner of 32 Kanals and 10 Marlas of land. Learned Collector on evaluation of the inter-se merits and demerits of both the candidates, finding petitioner to be more meritorious and suitable candidate appointed him as Lambardar of the village vide order dated 28.10.2015 (Annexure P-1). Aggrieved by the same, respondent No.4 filed an appeal under Section 13 of the Punjab Land Revenue Act before the Commissioner, Jalandhar Division, Jalandhar. Learned Divisional Commissioner after hearing both the sides found the order passed by the Collector to be perverse and hence, while setting aside the same, appointed respondent No.4 as Lambardar of the village vide order dated 25.04.2017 (Annexure P-3). Aggrieved by the same, the petitioner filed a revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who heard both the sides and re-appreciated the record. Learned Financial Commissioner found no infirmity in the order passed by learned Commissioner and hence, dismissed the revision vide his order dated 08.05.2018 (Annexure P-5). Hence,

aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that on comparison of inter-se merits of both the candidates, it is apparent that the petitioner being 49 years of age, was younger than respondent No.4 who was 58 years of age. Besides this, he owned more land than that of respondent No.4. It is submitted that the Assistant Collector Ist Grade had also recommended the name of the petitioner for his appointment. He has submitted that on the overall evaluation of the inter-se merits of all the candidates in fray, learned Collector found the petitioner to be most suitable candidate and thus, appointed him as Lambardar of the village. He has submitted that learned Commissioner in the appeal filed by respondent No.4 has set aside the well reasoned order passed by the Collector on the ground that the learned Collector has not correctly observed land holding of the petitioner. He submits that though respondent No.4 was more qualified than the petitioner but there is no minimum qualification provided for the appointment of Lambardar under the Punjab Land Revenue Act. He has submitted that appointment of Lambardar is prerogative of the Collector and thus, as per law settled, his decision can be interfered by the Appellate/Revisional authorities only in case when it is found to be suffering from any perversity. However, there being no perversity in the order passed by the Collector, the same was illegally set aside by the learned Commissioner in violation of the law settled. He has submitted that learned Financial Commissioner has also fallen in error in upholding the order passed by the Commissioner and thus, the impugned orders being in violation of law settled, deserve to be set aside.

4. Per contra, learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He has submitted that on comparison of the inter-se merits of both the candidates, it is apparent that there is no sustainable difference between the age of both the petitioner and respondent No.4, however, it is apparent that respondent No.4 is graduate and thus, he was much more qualified than that of the petitioner. It is submitted that learned Collector had totally ignored the qualification of respondent No.4 and by giving undue weightage to the age of the petitioner, illegally appointed him as Lambardar of the village, which was rightly held to be perverse by the Commissioner and further upheld by the Financial Commissioner. He has submitted that the order passed by the Collector can always be interfered by the Appellant/Revisional authorities, in case the same suffers from perversity. He has submitted that the order passed by the Collector was perverse and hence, respondent No.4 was rightly appointed as Lambardar of the village. It is submitted that respondent No.4 is discharging the duties of Lambardar since the date of his appointment without any complaint. It is further submitted that there being no merit in the present petition, the same deserves to be dismissed.

5. The Court has heard counsel for the parties and perused the record with their able assistance. As is evident from the facts and circumstances of the case, there is a difference of nine years in the age of both the candidates i.e. the petitioner and respondent No.4. The difference in their land holding is also minimal and the same is immaterial for the consideration as admittedly both the candidates have land holding as per mandate of the Punjab Land Revenue Act. However, there is no denial to the fact that respondent no.4 is graduate, whereas, petitioner is matriculate

by qualification. Learned Collector found the petitioner to be more suitable primarily for the reason that he was younger in age than respondent No.4. However, difference of age between both the candidates is about 8-9 years, whereas, there is a substantial difference in the qualification of both these candidates. From the record, it is also reflected that father of respondent No.4 was Sarpanch. It is also reflected that respondent No.4 remained Panch of the Gram Panchayat and hence, in the attending facts and circumstances of the case, respondent No.4 had an edge over the petitioner. However, the Collector appointed the petitioner which order was set aside by the Commissioner by appointing respondent No.4 as Lambardar, which was further upheld by learned Financial Commissioner as well. In the overall facts and circumstances of the case, this Court finds no infirmity in the orders passed by the Commissioner and Financial Commissioner, where a more educated candidate is found to have gained edge over the petitioner. Thus, this Court finds no infirmity in the impugned orders and hence, the present petition being devoid of any merit is hereby dismissed.

30.04.2024			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No