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

**CWP No.3553 of 2024**

**Date of Decision: 16.02.2024**

**Janak Raj**

**..... Petitioner**

**Versus**

**Financial Commissioner Haryana (Revenue),  
Chandigarh and others**

**..... Respondents**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

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Present: Mr. Satish Saini, Advocate  
for the petitioner.

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**RAJESH BHARDWAJ, J.**

Petitioner has approached this Court praying for quashing the impugned order dated 08.02.2024 (Annexure P-4) passed by the learned Financial Commissioner, Haryana vide which Revision has been allowed and the well reasoned orders passed by the learned Collector as well as the learned Commissioner have been set aside and direction was given to conduct the proceedings for appointment of Lambardar afresh being contrary to law and against the facts and evidence on record, unsustainable and liable to be set aside. Further prayer has been made for staying the operation of impugned order dated 08.02.2024 (Annexure P-4) passed by the learned Financial Commissioner, Haryana.

Adumbrated facts of the case are that on the death of earlier Lambardar (Backward Class), namely, Amolak Ram, the post of Lambardar in village Kalal Majra, Tehsil Thanesar, District Kurukshetra fell vacant. Thus, the process for appointment of new Lambardar (Backward Class) was initiated and the mustri munadi was conducted in the village for inviting the applications from interested and eligible candidates. In pursuance to the same, six applications were received from the candidates namely, Janak Raj (petitioner), Subash Chand, Shiv Kumar, Pradeep Kumar, Bhag Singh (respondent No.4) and Jaswinder Singh. Thereafter, Shiv Kumar was proceeded *ex parte* and one of the candidate namely, Subash Chand had withdrawn his application. So far as Pradeep Kumar is concerned, his application was rejected as he belongs to general category. Thus, three candidates namely, Janak Raj (petitioner), Bhag Singh (respondent No.4) and Jaswinder Singh remained in fray. On conducting their character verifications, Naib Tehsildar, Thanesar recommended the name of Jaswinder Singh for the appointment of Lambardar. Agreeing with the same, the Sub Divisional Officer (Civil), Thanesar also recommended the name of Jaswinder Singh for his appointment as Lambardar to the Collector, Kurukshetra. On appreciation of their merits, Jaswinder Singh was found to be 24 years of age and he had studied up to senior secondary standard. Bhag Singh i.e. respondent No.4 was found to be 40 years of age and he had studied up to senior secondary standard and Janak Raj i.e. the petitioner was found to be 44 years of age and he had also studied up to senior secondary

standard. FIR was registered against the petitioner, however he was acquitted of the charges. Learned Collector on the evaluation of merits and demerits of all the candidates in fray, found Janak Raj i.e. the petitioner to be most suitable candidate and thus, appointed him as Lambardar of the village vide his order dated 18.10.2016. Being aggrieved by the same, respondent No.4, namely Bhag Singh filed an appeal before the learned Divisional Commissioner, Ambala Division, Ambala. On hearing both the sides and re-appreciating the evidence on record, the learned Divisional Commissioner found no merit in the appeal filed by respondent No.4 and thus, dismissed the same vide his order dated 04.10.2021. Still being aggrieved, respondent No.4 filed the revision petition before the learned Financial Commissioner, Haryana i.e. respondent No.1. However, the learned Financial Commissioner found the order passed by the Collector and the Commissioner to be perverse and thus, set aside the same with a direction to conduct the proceedings for appointment of the Lambardar afresh vide his order dated 08.02.2024. Hence, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that on the evaluation of merits and demerits of all the three candidates in fray, the petitioner was found to be more meritorious and suitable candidate and thus, the Collector had rightly appointed him as Lambardar of the village. He submits that in the appeal filed by respondent No.4, the learned Commissioner also upheld the appointment of petitioner and

thus, dismissed the appeal vide his order dated 04.10.2021. He submits that the learned Financial Commissioner has set aside the well reasoned order passed by the learned Collector, which was upheld by the learned Commissioner only on the ground that the petitioner had faced trial in two FIRs under Section 304-A and 279 IPC, however the petitioner was acquitted in both the cases by the trial Court much prior to his appointment as Lambardar of the village. He submits that once the petitioner was acquitted by the trial Court, the same would not have any adverse consequence against the petitioner and hence, there was no illegality whatsoever in his appointment made by the learned Collector. To buttress his arguments, he relies upon the judgment passed by this Court in “***Gurbachan Singh vs. Financial Commissioner (Appeal-I), Punjab***”, CWP-16747-2000, decided on 06.12.2000. He submits that as per the demarcation report dated 22.09.2016, respondent No.4 had encroached upon the PWD road 38/2 as has been observed by the learned Commissioner while dismissing the appeal filed by respondent No.4. Thus, he was not a suitable candidate to be considered for appointment of Lambardar of the village. He submits that the learned Financial Commissioner i.e. respondent No.1 has miserably failed to appreciate the evidence on record and the law settled. He further submits that as per the law settled, Collector is the prime authority for appointment of the Lambardar and his choice cannot be interfered with in a cavalier manner and the same can be interfered with in the situation when the same suffers

from patent illegality or perversity. He submits that the impugned order being unsustainable in the eyes of law deserves to be set aside.

Heard.

On hearing learned counsel for the petitioner and perusing the record, it is apparent that on consideration of the *inter se* merits of petitioner and respondent No.4, it was found that both the candidates in comparison to the age and qualification were almost at par. However, it is apparent that the petitioner was prosecuted in two FIRs i.e. FIR No.35, dated 15.03.2015 under Sections 279/304-A of IPC in police station Brara and FIR No.424 dated 09.02.2010 under Sections 279/304-A of IPC in police station Shahabad. Though the petitioner was acquitted in both the cases, he carried stigma of facing the criminal prosecution. However, the learned Collector had given no finding regarding the same, So far as respondent No.4 is concerned, the learned Commissioner had observed in his order that as per the demarcation report dated 22.09.2016, respondent No.4 was in unlawful occupation of PWD road 38/2. However, there is no finding given by the learned Collector regarding this allegation as well.

Hence, in the facts and circumstances of the case and in the light of law settled, the case deserves to be remanded. Thus, this Court does not find any infirmity in the impugned order passed by the learned Financial Commissioner. Resultantly, the present petition being devoid of any merit is hereby dismissed.

In the overall facts and circumstances of the case, the learned Collector is directed to carry out further proceedings in accordance with the order passed by the learned Financial Commissioner within a period of three months from the date of receipt of copy of this order. Office is directed to send a copy of the order to the concerned District Collector, who on receipt of the same would proceed with the matter as per law.

(RAJESH BHARDWAJ)  
JUDGE

16.02.2024  
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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |