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

CWP-4210-2024

Date of decision : 13.03.2024

Ishwar Dass

.....Petitioner

versus

Financial Commissioner (Appeals), Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. N.P.S. Mann, Advocate
for the caveator/respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 14.12.2023 (Annexure P-3) passed by respondent No.1 whereby the well-reasoned order dated 06.05.2022 (Annexure P-2) passed by respondent No.2 as well as order dated 30.09.2019 (Annexure P-1) passed by respondent No.3 whereby the petitioner was appointed as Lamabardar of Village Gochar, Tehsil Sri Anandpur Sahib, District Rupnagar has been wrongly set aside and the case has been remanded back to the Court of District Collector, Rupnagar for fresh decision without pointing out any illegality and perversity in the choice made by the District Collector, which has been further upheld by the Appellate Authority being illegal, arbitrary and contrary to the mandate of law laid

down by this Court. Further prayer has been made for staying the operation and implementation of the impugned order dated 14.12.2023 (Annexure P-3) passed by respondent No.1 during the pendency of the present writ petition as the petitioner is working as Lambardar to the entire satisfaction of the Village in pursuance to the Sanad Lambardari issued to the petitioner on dated 17.08.2020 (Annexure P-4) by the District Collector, Rupnagar.

Adumbrated facts of the case are that the post of Lambardar fell vacant in the Village on the death of earlier Lambardar namely, Dalip Chand on 11.10.2018. Thus, the process for appointment of new Lambardar was initiated and proclamation was made for inviting the applications from the interested eligible candidates. In pursuance to the same, 21 applications were received including that of the petitioner and respondent No.4. Their character verification was got conducted from the concerned police station. On appreciation of the applications, the Naib Tehsildar recommended the name of respondent No.4 to the Sub Divisional Magistrate for the appointment of Lambardar. However, the Sub Divisional Magistrate declined the same and recommended the name of petitioner for the appointment of Lambardar to the Collector. On comparison of the *inter se* merits of both the candidates i.e. petitioner and respondent No.4, petitioner-Ishwar Dass was found to be 45 years of age and matric by qualification. Besides this, he owned 04 acres of land and he remained as Sarbara Lambardar for a period of 14 years and was also said to be retired as Subedar from Indian Army. On the other hand, respondent No.4-Harmesh Singh was found to be 40 years of age and matric by qualification. Besides this, he owned 37 kanals of land. On evaluation of the *inter se* merits of all the candidates in the fray, the

Collector found the petitioner to be more suitable for the appointment of Lambardar and thus, appointed him as Lambardar of the Village vide his order dated 30.09.2019. Being aggrieved, respondent No.4 filed an appeal before the learned Commissioner, Rupnagar Division, Rupnagar. On hearing both the sides, learned Commissioner found no merit in the appeal and thus, dismissed the same vide his order dated 06.05.2022. Still aggrieved, respondent No.4 filed revision under Section 16 of the Punjab Land Revenue Act before the learned Financial Commissioner, Punjab, Chandigarh. However, on hearing both the sides and re-appreciating the evidence on record, learned Financial Commissioner found the order passed by the Collector and the Commissioner to be perverse and thus, *set aside* both these orders and remanded the case to the District Collector, Rupnagar with a direction to reconsider the *inter se* merits of both the candidates by passing a fresh order vide his order dated 14.12.2023. Being aggrieved, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on the analysis of the *inter se* merits of both the candidates, petitioner was rightly found to be most meritorious and suitable candidate by the Collector and thus, was rightly appointed as Lambardar of the Village. He has submitted that the appeal filed against the order passed by the Collector was also found to be without any merit by the Commissioner and thus, the same was dismissed by the Commissioner. However, learned Financial Commissioner has fallen in error in setting aside both the well reasoned orders passed by the Collector and the Commissioner. He has submitted that respondent No.4 has claimed himself to be the nephew of the earlier Lambardar which is factually incorrect and thus, has given a

wrong information. He has submitted that the petitioner filed the application for appointment of the Lambardar wherein he has nowhere claimed himself to be an Ex-Serviceman and thus, there is no false information given by him to the authorities while filing his application. However, learned Financial Commissioner has illegally *set aside* the orders passed by the Collector and the Commissioner. It has been submitted by counsel for the petitioner that the learned Financial Commissioner has no jurisdiction to remand the case to the Collector in view of the provisions of Section 13(c)(iii) of Punjab Act XVII of 1887.

On the other hand, learned counsel for caveator-respondent No.4 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner has totally misled the authorities by providing false information wherein he has claimed himself to have retired as Subedar from the Army. It is submitted that the petitioner never served in Army and thus, no benefit of the same could have been given to him. He has submitted that the learned Collector has taken into consideration this very fact that the petitioner has served in Indian Army and thus, he was appointed as Lambardar of the Village. He has submitted that admittedly the respondent No.4 was younger in age than the petitioner and was having more land than that of the petitioner. He submits that the learned Commissioner also failed to appreciate the same but learned Financial Commissioner has rightly *set aside* both the orders passed by the Collector and the Commissioner which were totally perverse. He submits that the impugned orders having been passed in accordance with the law, 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 the petitioner and respondent No.4 both applied for the post of Lambardar in pursuance to *munadi* conducted in the Village. Though qualification-wise both the petitioner and respondent No.4 were matric but on the other parameters, as has been observed by the Collector, the petitioner had served in the Army as Subedar. However, it has been submitted before this Court by counsel for the petitioner that this fact was never mentioned by the petitioner even in his application. Thus, he provided no false information having served in Army. He submits that the petitioner has been appointed as Lambardar of the Village because he remained as Sarbara Lambardar of the Village for about 14 years as well. It is apparent from the order passed by the Collector that the petitioner has been considered as Ex-Serviceman having served in the Army which is denied even by counsel for the petitioner. Thus, this Court has no hesitation in holding the order passed by the Collector to be perverse which has been illegally upheld by the Commissioner. However, learned Financial Commissioner has rightly *set aside* both these orders by remanding the case to the Collector for decision afresh after taking into consideration merits and demerits of both the candidates. However, the submissions made by counsel for the petitioner that petitioner has been held to be not suitable by learned Financial Commissioner would prejudice the interest of the petitioner. It is thus, being clarified that learned Collector would re-evaluate the merits and demerits of both the petitioner and respondent No.4 as directed by the Financial Commissioner and would pass a fresh order in accordance with law expeditiously, preferably, within three months from the date of receipt of copy of this order without being influenced by the observation made by learned

Financial Commissioner that the petitioner has been held to be non-suitable. 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 all the parties and proceed with the matter.

Petition stands disposed of accordingly.

13.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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