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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4156-2023 (O/M)

Date of decision : 08.08.2024

Dharminder Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

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

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. Dilpreet Singh Gandhi, Advocate
for respondent No. 4.

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HARSH BUNGER, J.

1. Petitioner (Dharminder Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 15.12.2022 (Annexure P-6), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner') whereby he has set aside the order dated 13.08.2019 (Annexure P-1), passed by the learned Collector, Sri Muktsar Sahib (in short 'Collector') and also order dated 06.02.2020 (Annexure P-4), passed by learned Commissioner, Ferozepur Division, Ferozepur (in short 'Divisional Commissioner') and the case has been remanded to the learned Collector for deciding the matter afresh.

2. Briefly, on demise of Shri Ajmer Singh, previous Lambardar of village Gurusar, Tehsil Giddarbaha, District Sri Muktsar Sahib; proceedings were initiated for filling up the vacancy. In pursuance to the proclamation (mustri munadi) calling upon the applications for filling up the said vacancy, twelve applications (including the one submitted by the petitioner and also respondent No. 4-Harjit Singh), were received. The antecedents of the candidates, who remained in the fray, were got verified from the local police. It transpires that the Tehsildar as well as Sub Divisional Magistrate, Giddarbaha recommended the name of present petitioner for appointment to the aforesaid vacancy and forwarded the matter to the learned Collector.

2.1 The learned Collector, upon appreciating the relative merits/demerits of the candidates, appointed the petitioner as Lambardar of village Gurusar, vide order dated 13.08.2019 (Annexure P-1).

2.2 Respondent No. 4-Harjit Singh challenged the Collector's order dated 13.08.2019 (Annexure P-1) by filing an appeal before the learned Divisional Commissioner, however, the same was dismissed, vide order dated 06.02.2020 (Annexure P-4).

2.3 Being aggrieved against the aforesaid orders (Annexure P-1 and Annexure P-4), respondent No. 4 preferred a revision petition (ROR-405-2020) before the learned Financial Commissioner, which came to be allowed, vide order dated 15.12.2022 (Annexure P-6) whereby the orders (Annexure P-1 and Annexure P-4) were set aside and the matter was remanded to the learned Collector for deciding afresh after evaluating the merits of all the candidates.

3. In the aforementioned circumstances, the petitioner has filed

the instant civil writ petition for the relief(s), as noticed above.

4. Learned counsel for petitioner submits that the learned Financial Commissioner has erred in law and facts in allowing the revision petition preferred by respondent No. 4 and thereby setting aside the well reasoned orders (Annexure P-1 and Annexure P-4). It is submitted that the impugned order dated 15.12.2022 (Annexure P-6), passed by learned Financial Commissioner is against the well settled law that in the matter of appointment of Lambardar, the choice of Collector is not to be lightly interfered with, even if two views are possible unless there is patent illegality or perversity therein. It is further submitted that the learned Financial Commissioner has failed to point out any illegality or perversity in the orders passed by the learned Collector as well as the learned Divisional Commissioner. It is next submitted that the petitioner is more meritorious than respondent No. 4 inasmuch as the name of petitioner was recommended by the Tehsildar as well as Sub Divisional Magistrate, Giddarbaha and the petitioner is younger in age than respondent No. 4. It is also submitted that the petitioner is sufficiently educated (10th pass) and he can be a better liason between the villagers and the administration. As regards the landholding is concerned, it is submitted that the petitioner has sufficient landholding in his name. Accordingly, prayer has been made for setting aside the impugned order dated 15.12.2022 (Annexure P-6) being unsustainable in the eyes of law and for restoring the Collector's order, appointing petitioner as Lambardar.

5. Per contra, learned counsel for respondent No. 4-Harjit Singh has opposed the submissions made on behalf of petitioner by submitting that the impugned order dated 15.12.2022 (Annexure P-6) passed by the

not call for interference by this Court. It is submitted that respondent No. 4 is more educated than the petitioner and also has more landholding, however, the said aspect was ignored by the learned Collector as well as learned Divisional Commissioner; accordingly, the learned Financial Commissioner had rightly set aside the orders passed by learned Collector as well as learned Divisional Commissioner and has rightly remanded the matter to the learned Collector for fresh decision. With the aforesaid submissions, learned counsel for respondent No. 4 has prayed for dismissal of the instant civil writ petition.

6. I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.

7. Here, it would be apposite to state the relative merits of the candidates (as noticed by the Divisional Commissioner in its order dated 06.02.2020), which is as under :-

Particulars	Petitioner (Dharminder Singh)	Respondent No. 4 (Harjit Singh
Age	48	55
Educational qualification	10 th	B.A.
Land holding(s)	6 Acre	15 Acre
Recommended by	Tehsildar and SDM, Gidderbaha.	-----

7.1 A perusal of the above extracted comparison of the candidates would show that the petitioner is younger in age than respondent No. 4 and is sufficiently educated and has sufficient landholding. Further, the name of the petitioner was recommended by the lower revenue officers and the learned Collector found the petitioner as the most suitable candidate for appointment to the post of Lambardar.

7.2 In ***Mahavir Singh Versus Khiali Ram and Others***, 2009(1)

RCR (Civil) 757, Hon'ble the Supreme Court held that with regard to the appointment of a Lambardar in the State of Punjab, age of a candidate is a relevant factor. As far as the recommendations by the lower Revenue Officer is concerned, although, the Collector is not bound by the recommendation made by the Revenue Authorities in favour of a candidate; however, due consideration is to be accorded to such recommendations as they are in a position to assess the suitability of a candidate and such recommendation would have some persuasive value. In this regard, reference can be made to the observations made in the case of ***Hakam Singh Versus Financial Commissioner (Revenue), Punjab***, 2016(4) RCR (Civil) 335 and *Atma Singh vs The Financial Commissioner, Revenue, Punjab*, 2016(1) LAR 592.

7.3 Although, respondent No. 4 owns more land than the petitioner; however, it is observed that as far as holding of land is concerned, same is taken into consideration only for the purpose of security towards government revenue collected by the Lambardar. Petitioner has about 6 acre of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the Lambardar. Moreover, in case of ***Gurpreet Singh Versus Financial Commissioner (Revenue), Punjab***, 2017(1) RCR (Civil) 233, this Court has observed that land revenue stood abolished in both the State of Punjab and Haryana, long back, thus owning land by the candidates for the post of Lambardar would not be of much significance any further.

7.4 Furthermore, in the case of ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab***, 2016(1) RCR (Civil) 273; it was

Collector cannot be lightly set aside, even if two views are possible, unless there is any patent illegality or perversity therein. It is also well established that the learned Collector is the main authority for appointment of the Lambardar. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray but also personally interacts with them.

8. The learned Collector, while interacting with the candidates, observed that respondent No. 4-Harjit Singh was incapable of telling anything about himself and on that account, he was not considered to be a suitable candidate. The learned Divisional Commissioner, while dismissing the appeal filed by respondent No. 4, vide order dated 06.02.2020 (Annexure P-4), has observed as under :-

“ I have considered the arguments and perused record of the case. In the report dated 6.4.2018 Tehsildar Gidderbaha has mentioned that appellant Harjit Singh has studied upto B.A. standard and is aged of 55 years and owner of 3 Acres of land. Similarly, the Tehsildar, Gidderbaha has mentioned in his report dated 6.4.2018 that respondent Dharam Singh has studied upto 10th class standard and he is 48 years of age and owner of 3 Acres of land. But according to Naqsha Lambardari, the appellant Harjit Singh son of Jarnail Singh is owner of 15 Acres of land and respondent Dharminder Singh son of Amarjit Singh is owner of 6 Acres of land. There is a difference of land holding of the respondent and appellant in the report of Patwari Halqa and in the report of Tehsildar, Gidderbaha. In the absence of his counsel, the appellant could not tell about his age, educational qualification and land holding to the District Collector and was unable to say anything

in his defence. A Lambardar has to attend the revenue functionaries when they happen to visit the village and as such a Lambardar must express himself before the officers and attend to their questions properly. The appellant was ignored by the District Collector because he failed to argue his case before the District Collector. The District Collector being appointing authority is best judge in making appointment to the post of Lambardar. The District Collector found the respondent Dharminder Singh as suitable candidate for appointment as Lambardar and accordingly, appointed him Lambardar of village Gurusar, Tehsil Gidderbaha, District Sri Muktsar Sahib. Hence, I do not want to interfere in the appointment made by the District Collector and as such appeal is dismissed.”

9. Besides, I have also gone through the order passed by the learned Financial Commissioner whereby the matter has been remanded to the learned Collector for fresh decision. Evidently, the learned Financial Commissioner has remanded the case by noticing the claim of respondent No. 4 that he is more educated and he holds more land than the petitioner whereas the other relevant aspects have not been taken into consideration. Learned Financial Commissioner has failed to point out any illegality or perversity in the learned Collector's order and/or in the learned Divisional Commissioner's order. The matter has been remanded without considering the well settled position in law that the choice of Collector is not to be lightly interfered with, even if two views are possible.

10. In the afore-mentioned facts and circumstances, I am of the considered view that the order dated 15.12.2022 (Annexure P-6) passed

accordingly set aside. Resultantly, the instant writ petition is allowed and the order dated 13.08.2019 (Annexure P-1) passed by learned Collector, appointing the petitioner as Lambardar of village Gurusar, Tehsil Giddarbaha, District Sri Muktsar Sahib, is upheld.

11. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

08.08.2024
sjks

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