

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

CWP-4694-2024

Date of Decision: 29.02.2024

Gurmeet Singh

..... Petitioner

Versus

The Financial Commissioner (Appeals), Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. H.S. Saggu, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 30.11.2023 (Annexure P-10) passed by respondent No.1- Financial Commissioner (Appeals), Punjab, whereby a reasoned order dated 20.08.2019 (Annexure P-4) passed by respondent No.2 – Commissioner, Faridkot Division, Faridkot has been set aside and also for quashing the order dated 25.10.2017 (Annexure P-2) passed by the District Collector, Mansa and thereby restoring the order dated 20.08.2019 (Annexure P-4) of respondent No.2 appointing the petitioner as Lambardar, as the same was based on detailed/well reasoned report dated 12.04.2017 (Annexure P-1) of Assistant Collector Grade-II (Tehsildar), Budhlada recommending the name of petitioner.

Adumbrated facts of the case are that on account of death of Rattan Singh, earlier Lambardar of the village Achanak on 23.06.2016, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. On receiving necessary approval, *Mushtri Munadi* was conducted in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, six applications were

received including the petitioner (Gurmeet Singh), respondent No.4 (Mohinder Singh) and respondent No.5 (Angrej Singh). On verification of the applications, five candidates remained in the fray and their character verifications were got conducted from the concerned Police Station. On comparison of inter-se merits of the petitioner and respondents No.4 and 5, it was found as under:-

Name	Age	Education	Land holding	Remarks
Gurmeet Singh	34 years	10 th pass	10 Kanals 17 Marlas	Recommended by the Tehsildar
Mohinder Singh	55 years	10 th	22 Kanals 9 Marlas	Ex serviceman as he served 26 years in Army and also son of deceased Lambardar.
Angrej Singh	40 years	Post Graduate, Diploma in journalism and Mass Com.	57 Kanals 10 Marlas	--

Learned Collector on evaluation of inter-se merits and demerits of all the candidates, finding respondent No.4- Mohinder Singh to be more meritorious candidate appointed him as Lambardar of the village vide order dated 25.10.2017 (Annexure P-2). Aggrieved by the same, petitioner filed an appeal before the Commissioner, Faridkot Division, Faridkot. Learned Divisional Commissioner after hearing both the sides, set aside the order passed by the Collector and thus, accepted the appeal appointing the petitioner as Lambardar of the village vide his order dated 20.08.2019 (Annexure P-4). Aggrieved by the same, respondents No.4 and 5 filed their independent appeals (ROA-49-2019 and ROA-55-2019, respectively) under Section 13 of the Punjab Land Revenue Act, 1887 before the Financial Commissioner, who after hearing both the sides, accepted the same and thus, set aside the order dated 20.08.2019 passed by the Commissioner and remanded the case to the Collector for decision afresh vide his order dated

30.11.2023 (Annexure P-10). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contented that on the basis of proclamation made, the petitioner and other candidates applied for the appointment of Lambardar. It is submitted that respondent No.4 Mohinder Singh was in illegal possession of the Panchayat land which has been ignored by the Collector. He has submitted that the enquiry was conducted by the BDPO, Budhlada in which it was substantiated that respondent No.4 was in illegal possession of the Panchayat land. He submits that the petitioner was the most meritorious and suitable candidate, but ignoring the same, learned Collector passed the impugned order appointing respondent No.4 as Lambardar, which is unsustainable in the eyes of law. He submits that learned Divisional Commissioner finding the order passed by the Collector perverse, has rightly set aside the same by appointing the petitioner as Lambardar of the village. He submits that learned Financial Commissioner has failed to appreciate the evidence on record and thus, has illegally set aside the well reasoned order passed by the Divisional Commissioner. He has submitted that respondent No.5 Angrej Singh was not even contender before the revenue authority but learned Financial Commissioner has illegally accepted the appeal filed by him and thus, remanded the case in an arbitrary manner by setting aside the well reasoned order passed by the Commissioner. He submits that respondent No.5 is not even resident of the village and thus, he was not even eligible for the appointment of Lambardar of the village. It is thus, submitted that the impugned order passed by learned Financial Commissioner being perverse, deserves to be set aside and that of the order passed by the

Commissioner be upheld.

Heard.

After hearing learned counsel for the parties and perused the record, it is apparent that after conducting *mushtri munadi*, though six applications were received, however, only five candidates remained in fray. On comparison of their inter-se merits, respondent No.4 was appointed as Lambardar of the village, however in the appeal filed by the petitioner before the Commissioner, the same was set aside and the petitioner was appointed as Lambardar of the village. The order of the Commissioner was further assailed by respondents No.4 and 5 by way of filing ROA-49-2019 and ROA-55-2019, respectively. Learned Financial Commissioner after hearing all the parties, remanded the case to the Collector for decision afresh by setting aside the order passed by the Commissioner.

Precise submission made by counsel for the petitioner is that the order passed by the Collector being perverse was rightly set aside by the Commissioner by appointing the petitioner as Lambardar of the Village. It is further submitted that respondent No.5 Angrej Singh did not even file appeal against the order passed by the Collector and thus, he has no right to file appeal before the Financial Commissioner. However, it is apparent that the petitioner and respondents No.4 and 5 applied for the appointment of Lambardar, however, learned Financial Commissioner on finding the allegations and counter-allegations regarding the encroachment on the Panchayat land and ignoring the age of the candidates in fray, remanded the case for decision afresh.

On comparison of the inter-se merits of all the candidates in fray, it is apparent that the order of the Collector was not only set aside by the Commissioner, but he appointed the candidate of his choice and

allegation regarding the encroachment on the Panchayat land were also not specifically dealt with. Thus, the order passed by the Financial Commissioner remanding the case for decision afresh, is definitely in the interest of justice as the order passed by the Collector was found to be perverse. Thus, this Court does not find any infirmity in the order passed by learned Financial Commissioner in remanding the case for decision afresh.

In the facts and circumstances of the case, the Collector concerned is directed to decide the case afresh, after hearing all the sides without being influenced by the earlier order, expeditiously preferably within three months from the date of receipt of copy of this order. Till the decision of the Collector, the petitioner would continue to work as Lambardar of the village.

Disposed of in abovesaid terms.

Registry is directed to send a copy of this order to the Collector concerned, who on receipt of the same would issue notice to the parties for appearance and proceed with the matter in accordance with law.

29.02.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No