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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5419-2024
Date of decision : 20.03.2024

Amrik SinghPetitioner

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. R.K. Arya, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 11.09.2023 (Annexure P-6) passed by respondent No.2 and order dated 08.02.2021 (Annexure P-2) passed by respondent No.3 being null and void and against the law and based on conjecture and surmises. Further prayer has been made for staying the operation of the impugned order dated 11.09.2023 passed by respondent No.2 and order dated 08.02.2021 passed by respondent No.3.

Adumbrated facts of the case are that on the death of the earlier Lambardar namely, Balwant Singh, post of Lambardar fell vacant in Village Chhina Bet. The process for the appointment of new Lambardar was initiated. The *mustri munadi* was conducted in the Village for inviting the applications. In pursuance to the same, three applications were received from the candidates namely, Amrik Singh (petitioner), Karnail Singh and Daulat Singh (respondent No.5). Their character verification was got conducted from the concerned police station. On the assessment

of their *inter se* merits, the Assistant Collector 2nd Grade recommended the name of the petitioner to the Assistant Collector 1st Grade who by agreeing with this recommendation sent the case to the Court of Collector. Learned Collector on appreciation of the applications of the candidates found petitioner-Amrik Singh to be 36 years of age and 10th class pass by qualification. Besides this, he owned 27 kanals 04 marlas of land. So far respondent No.5-Daulat Singh is concerned, he was found to be 40 years of age and 10th class pass by qualification. Besides this, he owned 11 kanals 5 marlas of land. On evaluation of the *inter se* merits of the candidates, learned Collector found the petitioner-Amrik Singh to be the most suitable candidate and thus, appointed him the Lambardar of the Village vide his order dated 23.09.2014. Being aggrieved, respondent No.4 filed the appeal under Section 13 of Punjab Land Revenue Act before learned Commissioner, Jalandhar Division, Jalandhar. Learned Commissioner on hearing both the sides and re-appreciating the evidence on record found the order passed by the Collector to be perverse and thus, remanded the case to the Collector with the direction to decide it afresh vide his order dated 08.02.2021. Being aggrieved, petitioner filed revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner. However, learned Financial Commissioner finding no merit in the revision petition, dismissed the same and thus, upheld the remand order passed by learned Financial Commissioner vide order dated 11.09.2023. Hence, being aggrieved, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on finding the petitioner to be the most meritorious candidate, he was appointed as Lambardar of the Village by the learned Collector. He has

submitted that as per the law settled, the choice of the Collector cannot be interfered in a cavalier manner. However, in violation of the settled law, learned Commissioner has set aside the same which order was further illegally upheld by the learned Financial Commissioner. He has submitted that the appointment of the petitioner made by the Collector was *set aside* on the ground that the petitioner was in illegal possession of the Panchayati land. However, respondent No.5 had filed a complaint against the petitioner before respondent No.4 before the appointment of the Lambardar. It is submitted that the inquiry was conducted in the complaint field by respondent No.5 and the allegations made regarding encroachment allegedly made by the petitioner was found to be false. He submits that the petitioner is discharging his duties as Lambardar of the Village since 2014 and there is no complaint or enquiry pending against the petitioner. However, the Appellate and Revisional Authorities have failed to appreciate the same and thus, passed the impugned orders which are against the evidence on record and the law settled. He submits that the impugned orders being unsustainable in the eyes of law, deserve to be *set aside*.

Heard. On hearing counsel for the petitioner and perusing the record, it is apparent that on evaluation of the *inter se* merits of the candidates in the fray, petitioner was found to be more suitable and thus, he was appointed as Lambardar of the Village by the learned Collector vide his order dated 23.09.2014. However, in the appeal filed, learned Commissioner found serious allegations against the petitioner having made encroachment on the *jumla mushtarka malkan* land of the Village. Besides this, it was argued before the learned Commissioner that the petitioner had encroached upon *jumla mushtarka malkan* land measuring

12 kanals. In Column No.4 in jamabandi in the year 2005-2006, name of Balwant Singh was reflected as 'Gair Dakheeldar' who was the father of the petitioner. It was also found that the Collector had given the weightage to the fact that the petitioner was the son of the deceased Lambardar. However, the hereditary claim has been held to be unsustainable in the eyes of law. Learned Financial Commissioner had re-appreciated the evidence on record and found no infirmity in the remand order passed by the learned Commissioner. On appreciating the overall facts and circumstances of the case on the anvil of the law settled, this Court does not find any infirmity in the impugned orders. Hence, petition is dismissed and the case is remanded to the Collector for re-appreciating *inter se* merits of the candidates to meet the ends of justice. However, keeping in view the fact that the petitioner is working as Lambardar since 2014, he would continue to work as Lambardar till the decision is taken by the learned Collector.

Learned Collector is directed to decide the case afresh after assessing the *inter se* merits of the candidates expeditiously, preferably, within three months, from the date of receipt of copy of this order. Office is directed to send copy of this order to the Collector forthwith who on receipt of the same will issue notice for appearance to both the parties.

20.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

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:

Yes/No
Yes/No