

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

CWP-9404-2024

Date of Decision: 25.04.2024

Surinder Kumar

..... Petitioner

Versus

The Financial Commissioner and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. B.S. Seemar, Advocate for
 Ms. Manpreet Kaur, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing the impugned order dated 18.12.2023 (Annexure P-4) passed by learned Financial Commissioner (Appeals), Punjab i.e. respondent No.1, whereby, a well reasoned order dated 13.10.2021 (Annexure P-2) passed by learned Commissioner Jalandhar Division, Jalandhar, dismissing the appeal filed by respondent No.4 and order dated 30.01.2020 (Annexure P-1) appointing the petitioner as Lambardar of the village Lohian, Tehsil Shahkot and District Jalandhar, have been set aside and the matter is remanded to learned District Collector, Jalandhar for fresh decision, in an illegal and arbitrary manner.

2. Adumbrated facts of the case are that on account of death of Ram Pal, earlier SC Lambardar of village Lohian, Tehsil Shahkot, District Jalandhar, post of Lambardar fell vacant and thus, process for the appointment of new SC Lambardar was initiated. Hence, *mushtri munadi* was conducted in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, seven applications were received from candidates including Surinder Kumar (petitioner) and Sandeep Kumar (respondent No.4). Their character verifications were got

conducted from the concerned Police Station. During the proceedings, four candidates had withdrawn their candidature in favour the other applicants, hence, three candidates remained in fray. Naib Tehsildar, Lohian recommended the name of Surinder Kumar (petitioner) for the appointment to the Tehsildar, Shahkot. Candidate, namely Manjit Singh remained absent during the proceedings and thus, finally two candidates remained in fray. The Tehsildar, Shahkot agreeing with the same, recommended the name of the petitioner to SDM, who again agreeing with the recommendations made sent his recommendation about the petitioner to learned Collector. On appreciation of inter-se merits of both these candidates, the petitioner (Surinder Kumar) was found to be 63 years of age and 7th class pass by qualification. On the other hand, respondent No.4 (Sandeep Kumar) was found to be 33 years of age and 12th class pass by qualification. Learned Collector on evaluation of the inter-se merits and demerits of both the candidates, finding petitioner to be more meritorious candidate appointed him as SC Lambardar of the village vide order dated 30.01.2020 (Annexure P-1). Aggrieved by the same, respondent No.4 filed an appeal under Section 13 of the Punjab Land Revenue Act before the Commissioner, Jalandhar Division, Jalandhar. Learned Divisional Commissioner after hearing both the sides found no merit in the appeal and thus, dismissed the same vide order dated 13.10.2021 (Annexure P-2). Still aggrieved by the same respondent No.4, filed a revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who heard both the sides and re-appreciated the record. Learned Financial Commissioner finding both the orders passed by the learned Collector and the Commissioner to be perverse, set aside the same and remanded the case

to the District Collector for decision afresh vide his order dated 18.12.2023 (Annexure P-4). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that on finding the petitioner to be more meritorious and suitable, learned Collector had rightly appointed him as Lambdardar of the village. He submits that the Sub ordinate authorities i.e. Naib Teshildar, Tehsildar and SDM had recommended the name of the petitioner to the Collector for his appointment, who agreeing with the same had confirmed the recommendations made and thus, appointed him as Lambardar of the village. He has submitted that learned Financial Commissioner has miserably failed to appreciate the mandate of Rule 15 of the Punjab Land Revenue Act and the law settled and thus, illegally set aside both the orders passed by the Collector and the Commissioner. It is submitted that as per the law settled, the order passed by the Collector cannot be interfered with in a cavalier manner. Thus, he submits that the impugned order is unsustainable in the eyes of law and deserves to be set aside.

4. heard.

5. After hearing learned counsel for the petitioner, it is apparent that on the death of Ram Pal, earlier SC Lambardar of the village, procedure for the appointment of new Lambardar was initiated and the applications were invited. During the proceedings, finally two candidates i.e. the petitioner and respondent No.4 remained in fray. Inter-se merits of both these candidates were appreciated. On comparison of inter-se merits of both the petitioner and respondent No.4, it is deciphered that the petitioner was of the age of 63 years and 7th class pass, whereas, respondent No.4 was 33

years of age and 12th class pass by qualification. It is a settled proposition of law that a candidate younger in age should be given preference for the appointment of Lambardar. Besides this qualification wise as well respondent No.4 was more educated than the petitioner. However, learned Collector had ignored the same and appointed the petitioner as Lambardar of the village. Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757 has held that for the appointment of Lambardar, age of the candidate is a relevant factor.

6. There is no gainsaying that appointment of a Lambardar is prerogative of the Collector and the view taken by him cannot be interfered with in a cavalier manner. However, in the case in hand it is apparent that learned Collector had failed to give plausible reason for ignoring the merits of respondent No.4. Hence, this Court finds no infirmity in the order passed by learned Financial Commissioner, wherein, he has remanded the case to the Collector for decision afresh.

7. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is in agreement with the view taken by learned Financial Commissioner for remanding the case for decision afresh. Thus, finding no merit in the petition, the same is hereby disposed of.

8. However, keeping in view the overall facts and circumstances of the case and the litigation which is pending since last four years, learned Collector is directed to pass a fresh order after hearing both the sides expeditiously preferably within three months from the date of receipt of certified copy of this order. It is being clarified that respondent No.4 who is stated to be working as Lambardar of the village as on date, would continue to work as Lambardar till the fresh order is passed by the Collector.

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

25.04.2024
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No

(RAJESH BHARDWAJ)
JUDGE