

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

CWP-9574-2024

Date of Decision: 26.04.2024

Dilbagh Singh

..... Petitioner

Versus

The Financial Commissioner and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Surinder Sharma, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing the order dated 31.08.2016 passed by learned Collector respondent No.3 (Annexure P-1), order dated 01.03.2021 and 17.07.2023 passed by learned Financial Commissioner (Appeals) respondent No.1 (Annexures P-4 and P-6). Further prayer has been made for restoring the order dated 20.02.2018 (Annexure P-3) passed by learned Commissioner, Jalandhar Division, Jalandhar.

2. Adumbrated facts of the case are that on the resignation tendered by earlier Lambardar, namely, Gurdip Singh of village Basaarke, Tehsil Patti, District Tarn Taran, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated and proclamation was made for inviting applications from the eligible and interested candidates. In pursuance to the same, two applications were received from Dilbgh Singh (petitioner) and Malkit Singh (respondent No.4). Their character verifications were got done from the concerned Police Station. On comparison of their inter-se merits, the petitioner was found to be 39 years of age and 10th pass by qualification. Besides this he owned 48 Kanals of land in the village. On the other hand, respondent No.4 was found to be of 37 years of age, 12th pass by qualification and besides

this he was found to be owner of 94 Kanals 7 Marlas of land. Learned Collector on evaluation of their inter-se merits, found Malkit Singh (respondent No.4) to be more meritorious and suitable candidate and thus, appointed him as a Lambardar of the village vide order dated 31.08.2016 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal under Section 13 of the Punjab Land Revenue Act before learned Additional Commissioner (Appeal), Jalandhar Division. Learned Commissioner after hearing both the sides, accepted the appeal filed by the petitioner and remanded the case to the Collector for decision afresh and it was directed to clarify the place of residence of the petitioner and mental state of respondent No.4., vide his order dated 20.02.2018 (Annexure P-3). Aggrieved by the same, respondent No.4 filed an appeal under Section 13 of the Punjab Land Revenue Act, before the Financial Commissioner. Learned Financial Commissioner on the appreciation of the evidence on record, accepted the appeal filed by respondent No.4 and thus, has set aside the order passed by the Commissioner vide his order dated 01.03.2021 (Annexure P-4). Thereafter, the petitioner filed a review application for reviewing the order dated 01.03.2021, which was dismissed by the Financial Commissioner vide his order dated 17.07.2023 (Annexure P-6) and thus, he declined to review the order dated 01.03.2021 passed earlier. 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 comparison of the inter-se merits of both the candidates, there is no substantial difference in their age and qualification. However, the petitioner is younger and is having more land than that of respondent No.4. Learned

counsel for the petitioner has primarily assailed the impugned order passed by learned Financial Commissioner on the ground that after filing of the appeal before learned Financial Commissioner, counsel for the petitioner had expired in the month of May 2020 due to Covid-19, whereas, the appeal was decided on 01.03.2021 i.e. after his death. He has submitted that presence of the counsel for the petitioner was wrongly shown in the order passed by learned Financial Commissioner, whereas, counsel for the petitioner was not present at the time of decision of the appeal. It is submitted that it is because of this reason, the order passed by learned Financial Commissioner 01.03.2021 was vitiated and hence, he filed a review application against the same, which was illegally dismissed by learned Financial Commissioner vide his impugned order dated 17.07.2023. He has further submitted that learned Financial Commissioner has failed to consider the submissions made by counsel for the petitioner in the review application that the petitioner was not represented by any counsel and hence, his merits were not considered by the Revisional authority, but learned Financial Commissioner without appreciating the same has dismissed the review application on the ground that the petitioner had failed to make out any ground for review of the same. He further submits that learned Commissioner had rightly remanded the case for decision afresh as the order of Collector was suffering from perversity. He submits that the petitioner had contended regarding mental state of respondent No.4 and that of his being defaulter in the loan availed from the Kotak Mahindra Bank and on these two grounds, the order passed by the Collector was set aside by the Commissioner and the case was remanded, however, learned Financial Commissioner without appreciating the facts and circumstances of the case,

has illegally set aside the same when the counsel for the petitioner was not even present. He submits that in the review application filed before learned Financial Commissioner, he again failed to appreciate the submissions made by counsel for the petitioner and hence, has fallen in error in dismissing the review application. He further submits that the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

4. Heard.

5. After hearing learned counsel for the petitioner and perusing the record, it is apparent that on the resignation tendered by earlier Lambardar, namely, Gurdip Singh of the village, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. On conducting proclamation, the petitioner and respondent No.4 applied for the post. A perusal of their inter-se merits shows that there was no substantial difference in the age of both the candidates as the petitioner was 39 years of age, whereas, respondent No.4 was 37 years of age. On the other hand, qualification wise the petitioner was 10th pass and respondent No.4 was 12th pass. Hence, it is evident that respondent No.4 was younger in age and more qualified than the petitioner. Though the Commissioner had remanded the case with a direction to seek clarification on the mental state of respondent No.4 and regarding residential proof of the petitioner, however, there being no evidence on record to substantiate the same. Learned Financial Commissioner had set aside the same by accepting the appeal filed by respondent No.4.

6. Though counsel for the petitioner has submitted that earlier the Financial Commissioner decided the case when the petitioner was not represented by his counsel as he had already expired, but perusal of the order would show that the case was dealt with by learned Financial

Commissioner on merits in accordance with law. In the review application filed by the petitioner, he failed to produce any evidence on the record to substantiate the invoking of the jurisdiction of review filed. Thus, learned Financial Commissioner has rightly dismissed the review application filed.

7. In Sukhjinder Pal Singh Vs. State of Punjab and others, 2016(3) R.C.R. (Civil) 725, this Court while dealing with the same question has held as under:-

“14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.”

8. There is no gainsaying that the Collector is the prime authority for appointment of the Lambardar and in the case in hand, learned Collector finding respondent No.4 more meritorious and suitable candidate appointed him as Lambardar of the village. There being no perversity in the order passed by the Collector, learned Financial Commissioner has rightly dismissed the appeal and application filed by the petitioner as the same were against the law settled.

9. Thus, considering the overall facts and circumstances of the case on the anvil of law settled, this Court does not find any infirmity in the view taken by learned Financial Commissioner and hence, the petition being devoid of any merit is hereby dismissed.

26.04.2024
sharmila

(RAJESH BHARDWAJ)
JUDGE

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