

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

CWP-11909-2019 (O&M)

Date of Decision: 30.04.2024

Surjit Singh

..... Petitioner

Versus

Financial Commissioner and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. H.S. Batth, Advocate for
Mr. S.L. Chander Shekhar, Advocate, for the petitioner.
Mr.Navneet Singh, Sr. Deputy Advocate General, Punjab.
Mr. S.S.Majithia, Advocate,
for respondent No.4.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing the order dated 03.12.2019 (received on 22.04.2019) (Annexure P-3) passed by respondent-Financial Commissioner, Punjab Chandigarh and order dated 29.01.2018 (Annexure P-2) passed by the Commissioner, Jalandhar Division, Jalandhar, whereby the well reasoned order dated 17.08.2016 (Annexure P-1) passed by respondent No.3 has been set aside and the case is remanded to the District Collector, Tarn Taran for passing fresh order in illegal and arbitrary manner. Further prayer has been made to restore the order dated 17.08.2016, whereby, the petitioner was appointed as Lambardar of the village Lokha, Tehsil Patti, District Tarn Taran.

2. Adumbrated facts of the case are that on account of death of Teja Singh, earlier Lambardar of village Lokha, Tehsil Patti, District Tarn Taran, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. Proclamation was made in the village for inviting applications from the interested and eligible candidates. In

pursuance to the same, only one application was received i.e. the petitioner Surjit Singh. His character verification was got conducted from the concerned Police Station. The petitioner was found to be 10+2 pass and owner of 6 Kanals 3 Marlas of land. Learned Collector while exercising of powers under Section 15 of Punjab Land Revenue Rules 1979, appointed the petitioner as Lambardar of the village vide order dated 17.08.2016 (Annexure P-1). Aggrieved by the same, respondent No.4 Narvail Singh filed an appeal under Section 13 of the Punjab Revenue Act, 1887 before the Commissioner, Jalandhar Division, Jalandhar. It was contended before the Commissioner that there was no *Mushtri Munadi* effected in the village and a foul game was played by the petitioner and thus, learned Commissioner finding the order passed by the Collector to be perverse, set aside the same by directing that fresh *Mushtri Munadi* be made to invite the applications, vide his order dated 29.01.2018 (Annexure P-2). Aggrieved by the same, the petitioner filed a revision petition before the Financial Commissioner, however, finding no merit, the same was dismissed vide his order dated 03.12.2018 (Annexure P-3). 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 due process was followed and as the petitioner was only candidate, he was rightly appointed by the Collector as Lambardar of the village. However, learned Commissioner had fallen in error in setting aside the same, which was further illegally upheld by the Financial Commissioner. It has been further contended that the petitioner was 53 years of age, 10+2 pass and owned 8 Kanals of land, whereas, respondent No.4 Narvail Singh was 60 years of age and 11th pass. He submits that learned Financial

Commissioner has fallen in error in setting aside the well reasoned order passed by the Collector and thus, has illegally directed for making fresh appointment by inviting application by conducting fresh *Mushtri Munadi*. He has submitted that the impugned order deserves to be set aside.

4. Per contra, learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He has submitted that it is apparent from the facts and circumstances of the case that no *mushtri munadi* was conducted in the village and it is because of this, the petitioner was the only candidate in the fray. He submits that respondent No.4 and other interested candidates in the village were restrained from applying for the appointment as the due procedure for the appointment of Lambardar was not followed. He further submits that it was found that there was no Lambardar in the village with the name of Teja Singh. He submits that once proper procedure for the appointment of Lambardar was not followed, the whole process of appointment is vitiated. It is submitted that as the proclamation was not made, respondent No.4 could not join as a party before the Collector and hence, in the attending facts and circumstances of the case, respondent No.4 had rightly filed an appeal, even though he was not a candidate before the Collector. He has submitted that after orders having been passed by the Commissioner and the Financial Commissioner, fresh proclamation was ordered to be issued by Deputy Commissioner vide order dated 25.06.2019. He has further submitted that in pursuance to the order dated 25.06.2019 passed by the Deputy Commissioner, the petitioner was dismissed from the post of Lambardar vide order dated 17.07.2019. It is submitted that there is no infirmity in the impugned order passed and hence, afresh appointment is to

be made by inviting fresh applications on conducting fresh proclamation.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is apparent that on the death of earlier Lambardar Teja Singh, fresh applications were invited for the appointment of new Lambardar by making proclamation. The petitioner was the only candidate, who applied for the post and thus, he was appointed as Lambardar of the village by the Collector vide his order dated 17.08.2016. However, respondent No.4 filed an appeal before learned Commissioner impugning this order. It is deciphered from the arguments raised by counsel for respondent No.4 that no proper procedure was followed for the appointment of new Lambardar as proclamation was not made. Hence, from the whole of the village nobody except the petitioner could file his application. Appointment of the petitioner has been assailed on the ground that he maintained his appointment by circumventing the procedure. It is also emanated from the record that there was no earlier Lambardar, namely, Teja Singh on account of whose death, the post of Lambardar fell vacant. Learned Commissioner had observed in his order that on perusal of the *Mushtri Munadi* report, the same appeared to be suspicious. He directed that fresh *munadi* be made and also verify whether Teja Singh son of Sohan Singh was ever Lambardar of the village and thus, he set aside the order passed by the Collector by directing the Collector for inviting fresh applications by making fresh *Mushtri Munadi*. This order was further upheld by learned Financial Commissioner as well. On perusal of the record, it is apparent that after having passed the impugned order, the petitioner was dismissed from his post and the Deputy Commissioner had also issued order dated 25.06.2019

for inviting fresh applications by conducting *Mushtri Munadi* in the village.

7. Thus, in the overall facts and circumstance of the case, this Court finds that whole procedure adopted is full of suspicion and hence, to meet the ends of justice, fresh procedure for the appointment of Lambardar as directed by learned Commissioner, which is upheld by learned Financial Commissioner, deserves to be conducted. Thus, this Court does not find any merit in the present petition and hence, the same is dismissed.

8. As reflected from the reply filed, the order for fresh *mushtri munadi* was passed by learned Deputy Collector vide order 25.06.2019, however, this Court vide order dated 27.01.2020 had passed interim order to the effect that no fresh appointment be made. Thus, fresh appointment is yet to be made. Resultantly, Deputy Commissioner/Collector is directed to initiate fresh process for the appointment of Lambardar by conducting fresh proclaimed/*Mushtri Munadi* in accordance with the provisions of Punjab Land Revenue Act, 1887 and complete the same expeditiously preferably within a period of three months from the date of receipt of copy of this order. The petitioner and respondent No.4 would be at liberty to participate in the fresh process of appointment to be initiated by learned Collector.

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

30.04.2024
sharmila

(RAJESH BHARDWAJ)
JUDGE

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