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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12805-2022 (O/M)

Date of decision : 28.11.2024

Avtar Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Paramjit Rajput, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. P.S. Kanwar, Advocate
for respondent No. 4.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Avtar Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 11.10.2021 (Annexure P-7), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner').

2. Briefly, on demise of Shri Bakshi Ram, previous Lambardar of village Sasoli, Tehsil and District Hoshiarpur, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation made in the village for filling up the aforesaid vacancy, 7 persons (including the petitioner and respondent No. 4-Satinder Kumar) applied.

2.1 Learned Tehsildar, Hoshiarpur, recommended the candidature of respondent No. 4 (Satinder Kumar) for appointment to the aforesaid vacancy, however, learned SDM, Hoshiarpur recommended the name of petitioner (Avtar Singh) for filling up the aforesaid vacancy and thereafter, the matter was forwarded to learned Collector, Hoshiarpur (in short 'Collector').

2.2 Learned Collector, vide order dated 13.08.2015 (Annexure P-1), appointed the present petitioner as Lambardar of village Sasoli.

2.3 Being aggrieved against aforesaid order dated 13.08.2015 (Annexure P-1), respondent No. 4 (Satinder Kumar) preferred an appeal before learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner'), which came to be dismissed, vide order dated 15.02.2017 (Annexure P-3).

2.4 Still aggrieved, respondent No. 4 preferred a revision petition (ROR-417-2017) before learned Financial Commissioner. It is apposite to state here that apart from revision petition filed by respondent No. 4, two more revision petitions came to be filed i.e. ROR-415-2017, filed by one Nisha Kumari and ROR-416-2017, filed by one Rajesh Kumar.

2.5 All the aforesaid revision petitions came to be decided by learned Financial Commissioner, vide common order dated 11.10.2021 (Annexure P-7), whereby revision petition (ROR-417-2017) filed by respondent No. 4 (Satinder Kumar) was allowed and he was appointed as Lambardar of village Sasoli; whereas other revisions petitions i.e. ROR-415-2017 and ROR-416-2017 were dismissed.

3. In the aforementioned circumstances, the petitioner has filed

4. Learned counsel for petitioner submits that learned Financial Commissioner has erred in law and fact in passing the impugned order whereby petitioner's appointment as Lambardar has been set aside without appreciating the settled law that in the matter of appointment of Lambardar, the choice of Collector is not to be lightly interfered. It is further submitted that petitioner is more meritorious than respondent No. 4 inasmuch as that he has more land holding. It is next submitted that respondent No. 4 is not a suitable candidate for appointment to the post of Lambardar as he alongwith his brother is running a photostat shop in District Courts, Hoshiarpur, which is at a distance of 10 kilometers from village Sasoli, therefore, his availability to the villagers will be an issue. With the aforesaid submissions, learned counsel for petitioner has prayed that the impugned order dated 11.10.2021 (Annexure P-7), be set aside and order dated 13.08.2015 (Annexure P-1), passed by learned Collector be maintained.

5. On the other hand, learned counsel appearing for respondent No. 4 has opposed the submissions made on behalf of petitioner. It is submitted that learned Financial Commissioner has considered the merits and has rightly appointed respondent No. 4 as Lambardar being the most suitable candidate, therefore, no interference is required to be made in the order dated 11.10.2021 (Annexure P-7), passed by learned Financial Commissioner. Accordingly, prayer has been made for dismissal of the instant civil writ petition.

6. I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.

7. In the present case, learned Collector has appointed present petitioner as Lambardar of village Sasoli by observing that he is 47 years

of age, 4th class pass, owns 4 acre – 5 kanal land, which is more than any other candidate and also that learned SDM, Hoshiarpur recommended his name. Learned Collector's order was upheld by learned Divisional Commissioner, however, a perusal thereof would show that no reasoning has been rendered by learned Divisional Commissioner to uphold the learned Collector's order. Evidently, learned Financial Commissioner has allowed the revision petition filed by respondent No. 4 and appointed him as Lambardar of village Sasoli after setting aside the appointment of the petitioner. While comparing the merits/demerits of present petitioner and respondent No. 4, learned Financial Commissioner has observed as under:-

“7. I find Satinder Kumar son of Harmesh Lal as more suitable candidate for the post of lambardar. So far age of the petitioner (Satinder Kumar) and respondent is concerned, there is also difference between them. Satinder Kumar is younger in age than the respondent as he is 42 years old and the respondent is 47 years. Further, the difference lies when I compare other merits and demerits of both the candidates. In this case the petitioner (Satinder Kumar) is owner of 20 Kanals and 16 Marlas of agriculture land whereas the respondent owns 4 Acres 5 Kanal 2 Marlas of land. But since the land revenue has been abolished in the State of Punjab, therefore, the fact of holding more land may be one of the considerations but cannot be a deciding fact. Petitioner (Satinder Kumar) is more educated than respondent as he is 10th pass whereas respondent is 4th pass as recorded by District Collector. The respondent is also suffering from charges of illegal encroachment over panchayat land. As per Rule 15 of the Punjab Land Revenue Rules, 1908 (applicable to the Punjab), at the time of appointment of the Lambardar, regard shall be had to various factors including the

character of the candidate. If a person with clean image is available then he should be preferred over others. District Collector, Hoshiarpur ignored Petitioner (Satinder Kumar) on the ground that he is photocopier and has taken license of Photostat in District Court Hoshiarpur and not available in the village. In this regard, petitioner Satinder Kumar submitted that it is his brother who is working there as photocopier and the license issued by Collector is also in the name of his brother.

The Punjab Land Revenue Rules, 1909 require that for appointment of lambardar, there should be comparative merits of all the candidates and who has got the better merits should be appointed as lambardar. But in this case, the petitioner's (Satinder Kumar) merits were not considered by the court of SDM and District Collector. Even, the Commissioner, Jalandhar Division, Jalandhar has also dismissed the appeal of the petitioner. To find out a suitable headman for a village is an important subject therefore, it becomes necessary that appointment of the lambardar should be done after following due procedure and keeping in mind the relevant facts as prescribed under the Punjab Land Revenue Rules. Rule 15 of the Punjab Land Revenue Rules, 1909, which provides that there should be consideration of comparative merits of all the candidates contesting for the post of lambardar as detailed above. Thus, after taking into consideration the merits and demerits of the petitioners and respondent, I find that petitioner (Satinder Kumar) is better candidate for the post of lambardar than the respondent and other petitioners on account of his unblemished record, personal influence, availability, education and ability to discharge the functions of the lambardar. Keeping in view the facts and circumstances of the case brought to my knowledge, I am of the view that the order passed by the District Collector Hoshiarpur dated 13.08.2015 and the order

dated 15.02.2017 passed by the Commissioner, Jalandhar Division, Jalandhar. The petitioner (Satinder Kumar) is appointed as lambardar of the village Sasoli, Tehsil and District Hoshiarpur. District Collector, Hoshiarpur is directed to issue 'sanad lambardari' in his favour. The plea of petitioners in ROR No. 415 of 2017 and ROR 416 of 2017 is dismissed being devoid of any merit. All the three revision petitions are disposed with a single order. Copy of this order be communicated to the courts below. File be consigned to the record room."

6.1 A perusal of above extract findings returned by learned Financial Commissioner would manifest that respondent No. 4 is younger in age than present petitioner. Hon'ble the Supreme Court in the case of ***Mahavir Singh v. Khiali Ram and Others***, 2009(1) RCR (Civil) 757, held that with regard to the appointment of a Lambardar in the State of Punjab, age of a candidate is a relevant factor. It is further observed that respondent No. 4 is more educated than the petitioner inasmuch as that respondent No. 4 is 10th pass, whereas present petitioner is only 4th class.

7. In my considered view, considering the nature of duties to be performed by a Lambardar, it would be appropriate if an educated person is appointed to the said post. As regards land holding is concerned, learned Financial Commissioner has rightly observed that since the land revenue has been abolished in the State of Punjab, therefore, holding of land may not be one of the considerations. Similar view was taken by this Court in case of ***Gurpreet Singh versus Financial Commissioner (Revenue), Punjab***, 2017(1) RCR (Civil) 233. It is also noticeable that respondent No. 4 is owner of 20 Kanal – 16 Marlas of land, which is quite sufficient. As regards the recommendation made by learned SDM, Hoshiarpur in favour of petitioner is concerned, it is observed that

recommendations made by lower revenue officials are not binding on learned Collector, although they do have persuasive value. In this case, Tehsildar, Hoshiarpur had also recommended the name of respondent No. 4 for appointment as Lambardar.

8. Considering the totality of circumstances, I am of the considered view that respondent No. 4 is more suitable and meritorious for appointment to the post of Lambardar as he is younger in age and more educated than present petitioner. The learned Financial Commissioner has rightly appointed respondent No. 4 as Lambardar of village Sasoli.

9 In view of the above discussion, I do not find any merit in the instant civil writ petition and same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

28.11.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No