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

CWP-10991-2024

Date of decision : 14.05.2024

Simranjit Singh Kang**.....Petitioner****versus****Financial Commissioner (Appeals), Punjab and others Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Amardeep Singh Gill, Advocate
for the petitioner.

*********RAJESH BHARDWAJ, J.**

1. Prayer in the present petition is for quashing the order dated 05.01.2024 (Annexure P-6) of the Financial Commissioner (Appeals), Punjab, order dated 23.12.2022 (Annexure P-4) passed by the Commissioner, Roopnagar Division, Roopnagar and order dated 16.06.2021 (Annexure P-2) passed by the Deputy Commissioner-cum-District Collector, Shaheed Bhagat Singh Nagar, the same being wrong, illegal, erroneous and against the Punjab Land Revenue Rule. Further prayer has been made for appointing petitioner as Lambardar of Village Kharkuwal, Tehsil Nawanshahar District Shaheed Bhagat Singh Nagar.

2. Adumbrated facts of the case are that on the death of earlier Lambardar namely, Amrik Singh of Village Kharkuwal, Tehsil Nawanshahar on 23.11.2017, the Sub Divisional Magistrate granted the permission to Tehsildar for initiating the process for the appointment of new Lambardar vide his order dated 18.06.2018. Thus, the proclamation was conducted in the Village for inviting the applications from the interested eligible candidates. In pursuance to the same, 17 applications were received

including that of petitioner-Simranjit Singh Kang and respondent No.4-Varinder Trehan. The character verifications of all applicants were conducted from the Senior Superintendent of Police, SBS Nagar. On appreciation of the applications filed and character verification reports received, the Tehsildar, Nawanshahr vide his report dated 30.07.2019 recommended the name of respondent No.4 for appointment as Lambardar. On appreciation of merits of all the candidates by the Collector, petitioner was found to be 29 years of age and 10+2 by qualification. He could read & write Punjabi, Hindi and English. Besides this, he owned 12 kanals of land. On the other hand, respondent No.4 was found to be 35 years of age and 10+1 by qualification. He could also read & write Punjabi, Hindi and English. He was found to be owner of 61 Kanals 08 marlas of land. Learned Collector on evaluation of the *inter se* merits of the candidates in the fray, found respondent No.4 to be more suitable for the appointment and thus, appointed him as Lambardar of the Village vide his order dated 16.06.2021. Being aggrieved, petitioner and co-applicant/Gurmukh Singh filed their independent appeals before the Commissioner, Roopnagar Division Roopnagar. However, on hearing all the parties, learned Commissioner found no merit in the same and thus, dismissed both the appeals vide his order dated 23.12.2022. Still aggrieved, petitioner assailed the said order before the learned Financial Commissioner by way of filing revision petition under Section 16 of the Punjab Land Revenue Act, 1887. Learned Financial Commissioner heard both the sides however, found no perversity in the orders passed by the Collector and the Commissioner and thus, dismissed the revision petition by the petitioner vide his order dated 05.01.2024. Thus, the order passed by the Collector appointing respondent No.4 as Lambardar of Village was upheld by the Commissioner and the Financial Commissioner. Hence, being aggrieved, petitioner is before this Court by way of filing the

present petition.

3. Learned counsel for the petitioner has contended that on comparison of *inter se* merits of the petitioner and respondent No.4, it is apparent that the petitioner was 29 years of age and 10+2 by qualification. Thus, he was younger in age than respondent No.4 and more qualified than him. He submits that petitioner is a permanent resident of the Village. He has further submitted that petitioner's grand-father, Amrik Singh and great grand-father, Bishan Singh remained Lambardar of the Village and he helped his grand-father in Lambardari work. Thus, he has the experience and hereditary claim for his appointment as Lambardar. Besides this, his mother Smt.Surinder Kaur remained Sarpanch of the Village thus, petitioner was having the experience but the same has been ignored by the Collector while appointing respondent No.4 as Lambardar. He further submits that father of respondent No.4 while being Secretary of the Village Cooperative Society had embezzled lacs of rupees and thus, the petitioner was most suitable and meritorious candidate. However, the same has been overlooked by the Collector. It is submitted that as per the law settled, candidate younger in age deserves to be preferred. He submits that in the facts and circumstances of the case and on the basis of the law settled, the order passed by the Collector is perverse which has been illegally upheld by both the Appellate and Revisional Authorities and thus, the same deserve to be *set aside* and petition be allowed by appointing the petitioner as Lambardar of the Village.

4. *Per contra*, learned counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner. He has submitted that on comparison of the *inter se* merits, there is no substantial difference between the age and qualification of both the candidates. However, respondent No.4 owned more land than the petitioner. It is submitted that on comparison of the *inter se* merits, Tehsildar Nawanshahar and Sub Divisional Magistrate

Nawanshahar recommended the name of respondent No.4 for appointment of Lambardar. On evaluation of the overall merits and demerits of all the candidates in the fray, learned Collector appointed respondent No.4 as Lambardar of the Village. He submits that the appointment made by the Collector was assailed before the Commissioner and thereafter, before the learned Financial Commissioner. He has submitted that admittedly, both the Appellate and Revisional Authorities upheld the orders passed by the Collector. He submits that as per the law settled, the appointment of Lambardar is a prerogative of the Collector and the same cannot be interfered in the cavalier manner. It is submitted that there being no perversity in the orders passed by the Collector, the same has been rightly upheld by both the Appellate and Revisional Authorities. He submits that there being a concurrent finding in favour of respondent No.4, petition being without any merit, deserves to be dismissed.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent that on the death of earlier Lambardar namely, Amrik Singh, applications were invited for the appointment of new Lambardar in Village Kharkuwal, Tehsil Nawanshahr. As per the record, out of 17 applications received, respondent No.4 was found to be more suitable and thus, his candidature was recommended by the Tehsildar and Sub Divisional Magistrate to the Collector for his appointment of Lambardar. On comparison of inter se merits of both the candidates, it is evident that there is no substantial difference between their age and qualification. However, the precise submissions made by counsel for the petitioner is that petitioner has hereditary claim as his grand-father and great grand-father remained Lambardar of the Village and his mother remained the Sarpanch of the Village. The arguments is also raised regarding embezzlement made by father of respondent No.4.

6. As per the judgment titled as **Parkash Chand Vs. State of Haryana** passed in **CWP No.17185 of 2011** decided on **30.01.2013**, hereditary claim has been held to be unconstitutional. This Court in **Parkash Chand's case (supra)** held as under:

*“So far as the hereditary claim is concerned, the issue is no more res integra. It was held by a Division bench of this Court in **Karnail Singh vs. State of Haryana**, 1974 PLR 67 that Rule 17(ii) being violative of the fundamental rights guaranteed by Articles 14, 15 and 16 of the Constitution of India, the provision providing for the hereditary claim was ultra vires and unconstitutional.”*

7. Thus, this argument raised by counsel for the petitioner is without any force and is rejected. The contention regarding allegations against father of respondent No.4 are also found to be without any force as there was nothing on record to support this contention. Even otherwise, it is the individual merits of the candidates in the fray which are meant to be taken into account for evaluation of their suitability to the post under consideration. Needless to say, the appointment of Lambardar is the prerogative of the Collector who not only appreciates the merits and demerits of the candidates in the fray but makes personal interaction as well with the candidates and thus, as per the law settled, his choice has to be respected unless the same is found to be perverse on the anvil of the law settled. In the case in hand even if respondent No.4 is elder by few years, this Court cannot ignore the fact that choice of the Collector has been upheld by both the Appellate and Revisional Authorities as well.

8. 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.

9. As per the law settled, even if there are two views possible, one which is adopted by the Collector unless it suffers from any perversity, should be respected.

10. Weighing the facts and circumstances of the case in hand on the anvil of the law settled, this Court does not find any perversity in the impugned order and thus, the present petition being devoid of any merits is hereby dismissed.

14.05.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No