

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

CWP-18471-2019

Date of Decision: 29.04.2024

Paramjit Singh Bhatoya

..... Petitioner

Versus

Financial Commissioner (Appeals) and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Naveen Batra, Advocate, for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

Mr. Nikhil Chopra, Advocate for
respondent No.4.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for setting aside the order dated 22.10.2018 (Annexure P-3) passed by learned Financial Commissioner, Punjab, order dated 26.08.2014 (Annexure P-2) passed by learned Commissioner, Jalandhar Division, Jalandhar and order dated 08.11.2011 (Annexure P-1) passed by learned Deputy Commissioner-cum-District Collector, Hoshiarpur, vide which respondent No.4 is appointed as Lambardar of the village Bhunga, Tehsil and District Hoshiarpur, as the same are against the facts and settled principles of law and being perverse are liable to be set aside by appointing the petitioner as Lambardar of the village.

2. Adumbrated facts of the case are that on account of death of Lachhman Dass, earlier SC Lambardar of the village Bhunga, Tehsil and District Hoshiarpur on 31.07.2009, post of SC 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, applications

were received from various candidates including the petitioner (Paramjit Singh Bhatoya) and respondent No.4 (Jaspal Singh). Character verifications of all candidates were got conducted from the concerned Police Station. On comparison of their inter-se merits, the petitioner was found to be 42 years of age and BA pass by qualification. Besides this, he was found to be involved in a criminal case registered under Sections 323, 324, 148 and 149 IPC. On the other hand, respondent No.4 was found to be 40 years of age and matriculate by qualification. Besides this, he was found to be owner of 4 Kanals of land and a member of village Panchayat from the last four terms. Learned Collector on evaluation of the inter-se merits and demerits of all the candidates, finding respondent No.4 to be more meritorious candidate appointed him as Lambardar of the village vide order dated 08.11.2011 (Annexure P-1). Aggrieved by the same, the petitioner and co-appellant Charanjit Singh filed their independent appeals under Section 13 of the Punjab Land Revenue Act, 1887 before the Divisional Commissioner, Jalandhar Division, Jalandhar, who heard both the appeals together. Learned Divisional Commissioner after hearing all the sides found no infirmity in the order passed by the learned Collector and thus, dismissed both the appeals vide his order dated 26.08.2014 (Annexure P-2). Again aggrieved by the same, the petitioner filed a revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the Financial Commissioner, who re-heard both the sides and re-appreciated the record. However, learned Financial Commissioner finding no infirmity in the orders passed by the Collector and Commissioner, dismissed the revision petition vide his order dated 22.10.2018 (Annexure P-3). Thus, all the three authorities have taken a view in favour of respondent No.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 the comparison of the inter-se merits of all the candidates in fray, the petitioner was most meritorious and suitable candidate as he was more qualified than respondents No.4, however, his candidature has been illegally rejected on the ground that he was involved in a criminal case. He submits that the petitioner was acquitted in the said case and thus, his prosecution in this criminal case had no bearing on his candidature, whereas, learned Collector miserably failed to appreciate the same and thus, illegally appointed respondent No.4 as Lambardar of the village. He has submitted that both the Appellate and Revisional authorities have equally failed in appreciating that the petitioner was acquitted in criminal case and hence, his candidature could not have been rejected on this ground. He submits that the order passed by the Collector being perverse is unsustainable in the eyes of law, which was illegally upheld by the Appellate and Revisional authorities as well. He has relied upon the judgment of this Court in Talwinder Singh vs. Financial Commissioner (Co-operation), Punjab, Chandigarh and others, 2012(67) RCR (Civil) 852. He further submits that in these circumstances, the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

4. Per contra, learned counsel for respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that respondent No.4 is younger than the petitioner. He has submitted that though the petitioner is BA pass by qualification but respondent is also 10th pass and there is no minimum qualification required for the appointment of Lambardar as per the mandate of the Punjab Land Revenue Act. He submits that respondent No.4 has an impeccable record as

he was never involved in any criminal case, whereas, admittedly, the petitioner faced criminal prosecution in case registered under Sections 323, 324, 148 and 149 IPC. He submits that the petitioner was acquitted in the said criminal case on account of death of the complainant. He submits that even if the petitioner is acquitted, but stigma still remains on his character and thus, the petitioner is not eligible for the appointment of Lambardar and learned Collector had rightly appointed respondent No.4 as Lambardar of the vilalge, which order was further upheld by both the Appellate and Revisional authorities. He also relies upon the judgments of this Court in Harjit Singh vs. State of Punjab and others, 2023(4) RCR (Civil) 408; Ranjit Singh son of Sh. Ombir Singh vs. Financial Commissioner, Haryana and another, 2009(4) RCR (Civil) 350; Shaminder Singh vs. The Financial Commissioner (Appeals) and others, Law Finder Doc Id # 2336937; Gurmail Singh vs. Financial Commissioner, Punjab and others, Law Finder Doc Id # 2336990; Harish Chander vs. State of Punjab and others, Law Finder Doc Id # 2341198 and Bhagwan Singh vs. Financial Commissioner, Appeals-I, Punjab Chandigarh and others, 2008(4) RCR (Civil) 862. He has further submitted that as per law settled the view taken by the Collector cannot be interfered with, unless the same suffers from patent illegality and thus, there being no infirmity or illegality in the order passed by the Collector, which was rightly upheld by the Appellate and Revisional authorities, the present petition being devoid of any merit, deserves to be dismissed.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record with their able assistance, it is apparent that on the death of earlier

SC Lambardar, process for the appointment of new Lambardar was initiated

in the village and applications were invited from the interested and eligible candidates. On receiving the application, inter-se merits of all the candidates were considered and it was found that though there was no material difference in the age of both the candidates, however, the petitioner was more qualified than respondent No.4. On the verification of the record, it was found that the petitioner had faced criminal prosecution in a case registered under Sections 323, 324, 148 and 149 IPC. It is also apparent from the record that the petitioner was acquitted in the said case on account of death of the complainant, whereas, respondent No.4 has an impeccable record as he never faced any criminal prosecution in any case. Thus, on the evaluation of overall merits of all the candidates, the petitioner was found to be more meritorious and suitable candidate by the Collector. The view taken by the Collector was upheld by both the Appellate and Revisional authorities as well. 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.”

7. There is no gainsaying that the Collector is the prime authority for appointment of the Lambardar. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray, but also personally interacts with them. Thus, the subjective satisfaction of the Collector cannot be ignored in a cavalier manner.

9. There is no gainsaying that the petitioner has faced criminal

prosecution. Although he was acquitted in the same but, he is not eligible for the appointment of Lambardar, as has been held by this Court in **Harjit Singh's** (supra), wherein, it has been held as under:-

“4. A perusal of the record would go on to show that the District Collector was examining the merits of two more candidates namely Naresh Thakur and Manohar Lal apart from the present appellant and the private respondent. Manohar Lal had withdrawn his application and the name of Sahib Singh had been sent by the Assistant Collector Ist Grade, Pathankot for conducting a hearing before recommending the name as there were criminal cases pending against him. The Assistant Collector Ist Grade, Pathankot gave the details of the pending cases and recommended Harjit Singh-appellant thereafter. On the date of hearing, Sahib Singh had not appeared and only Harjit Singh had put in appearance. He was noticed to be 38 years old and matric pass and owner of 9 kanals and 9 marlas of land. The Collector noticed that details of criminal cases had been given by the Assistant Collector in his report and the judgment of the Division Bench of Court in ***Ranjit Singh vs. Financial Commissioner, Haryana and another 2009 (4) RCR (Civil) 350*** was kept in mind that where criminal cases are registered and even on acquittal, the person is not eligible for appointment as Lambardar.”

10. As per law settled by Hon'ble Supreme Court in **Mahavir Singh's** case (supra), the candidate younger in age should be given preference for the appointment of Lambardar.

11. All the three subordinate authorities have taken consistent view and thus, order passed by the Collector is found to be suffering from no perversity. This Court in **Hakam Singh vs. Financial Commissioner (Revenue), Punjab and others**, 2016(4) RCR (Civil) 335 while dealing with the same question has held as under:-

“3. Having heard the learned counsel for the petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.”

12. There is no dispute regarding the judgment relied upon by learned counsel for the petitioner, however, in the facts and circumstances of the case, the same is distinguishable.

13. In view of the facts and circumstances of the case and on the anvil of law settled, this Court does not find any perversity in the impugned orders and thus, the present petition is dismissed being devoid of any merit.

29.04.2024
sharmila

(RAJESH BHARDWAJ)
JUDGE

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