

2024.PHHC:147788



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

CWP-12253-2023 (O&M)
Date of decision :12.11.2024

KASHMIRI LAL

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Mohan Singh Chauhan, Advocate
for the petitioner.

Mr. Navneet Singh, Senior D.A.G., Punjab.

Mr. Gurnam Singh Nagra, Advocate
and Mr. P.S. Chahal, Advocate
for respondent No.4.

HARSH BUNGER, J. [ORAL]

Petitioner (Kashmiri Lal) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking setting aside of order dated 06.02.2023 (Annexure P-3) passed by learned Financial Commissioner (Appeals), Punjab, vide which, order dated 03.10.2019 (Annexure P-1) passed by the learned District Collector, Jalandhar and order dated 08.09.2021 (Annexure P-2) passed by the learned Commissioner, Jalandhar Division, Jalandhar regarding his appointment as *Lambardar* of Village Mehatpur, Tehsil Nakodar, District Jalandhar, has been set aside and the matter has been remanded back to respondent No.3-District Collector, Jalandhar, to pass a fresh order.

2. Briefly, the previous *Lambardar* (Sukhdev Singh) of Village Mehatpur, expired on 15.09.2017; whereupon, the proceedings were initiated for filling up the afore-said vacancy. In pursuance to the proclamation for filling up the said vacancy, seven candidates (including the petitioner and respondent No.4) applied for the said post. Subsequently, candidate namely, Bhupinder Singh withdrew his application for the post of *Lambardar*, therefore, six candidates were left in the fray, whose antecedents were got verified from the local police. Learned Naib Tehsildar, Tehsildar as well as Sub-Divisional Magistrate, Nakodar recommended the name of the present petitioner-Kashmiri Lal, for appointment to the vacant post of *Lambardar*, and the file was sent to the learned Collector, Jalandhar.

3. Learned Collector, considered the relative merits/de-merits of the candidates and vide its order dated 03.10.2019 (Annexure P-1) appointed petitioner-Kashmiri Lal, as the *Lambardar* of Village Mehatpur, Tehsil Nakodar, District Jalandhar.

4. Feeling aggrieved against the afore-said order dated 03.10.2019 (Annexure P-1), respondent No.4 (Jatinder Kumar) filed an appeal before the learned Commissioner, Jalandhar Division, Jalandhar, which was dismissed vide its order dated 08.09.2021 (Annexure P-2).

5. Thereafter, respondent No.4 preferred a revision petition (ROR-949-2021) before the learned Financial Commissioner (Appeals), Punjab. Said Revision Petition came to be allowed vide order dated 06.02.2023 (Annexure P-3) and order dated 08.09.2021 passed by the learned Commissioner, Jalandhar Division, Jalandhar and order dated 03.10.2019 passed by the learned District Collector, Jalandhar, were set

aside and the case was remanded to the learned District Collector, Jalandhar, for taking a fresh decision thereupon.

6. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court, for the relief/s, as noticed here-in-above.

7. Learned counsel for the petitioner submits that the learned Financial Commissioner has erred in law and fact in passing the impugned order dated 06.02.2023 (Annexure P-3) and thereby setting aside the well reasoned order dated 03.10.2019 passed by the learned Collector as well as the order dated 08.09.2021 passed by the learned Commissioner. It is contended that the learned Financial Commissioner, has failed to appreciate the settled law that choice of Collector is to be respected, even if, two views are possible. It is submitted that the order passed by the learned Collector was also upheld by the learned Commissioner; therefore, the learned Financial Commissioner, should have been circumspect in setting aside the choice of the Collector. It is further submitted that the petitioner is younger in age; owns sufficient land (21 Kanal 06 Marla) and has also remained as Member Panchayat for two times of Village Mehatpur and even his name was recommended by both the lower Revenue Officers i.e. The Naib Tehsildar, Mehatpur and Sub-Divisional Magistrate, Nakodar, for appointment as *Lambardar*. It is next submitted that the learned Financial Commissioner, has wrongly set aside the orders passed by the learned Collector and learned Commissioner, only on the ground that an FIR No.112 dated 03.10.2008 under Sections 323, 324, 148 and 149 IPC was registered against the petitioner at Police Station Mehatpur, whereas, the petitioner, in that case was found innocent during investigation. It is, therefore, prayed that the impugned order passed by the learned Financial

Commissioner, be set aside and the Collector’s order, appointing the petitioner as *Lambardar*, be upheld.

8. Per contra, learned counsel appearing for respondent No.4 has opposed the submissions made on behalf of the petitioner, by submitting that the learned Financial Commissioner, had rightly set aside the orders passed by the learned Collector as well as the learned Commissioner, because while appointing the *Lambardar*, the comparative merits and de-merits of the contesting candidates were not appropriately considered by the said authorities. Therefore, the learned Financial Commissioner, had rightly remanded the matter to the learned Collector, Jalandhar, to take a fresh decision after taking into consideration the comparative merits and demerits of both the candidates. Accordingly, prayer for dismissal of the writ petition has been made.

9. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

10. Here, it would be apposite to state the relative merits of the candidates (as noticed by the learned Collector), which can be summed up as under :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Kashmiri Lal)</i>	<i>Resp. No.4 (Jatinder Kumar)</i>
<i>1</i>	<i>Age</i>	<i>57 years</i>	<i>59 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>Matric</i>	<i>Matric</i>
<i>3</i>	<i>Land holding/s</i>	<i>21 Kanal</i>	<i>05 Kanal</i>
<i>4</i>	<i>Recommended by</i>	<i>Naib Tehsildar, Mehatpur SDM, Nakodar</i>	<i>---</i>
<i>5</i>	<i>Other remarks</i>	<i>Remained Member Panchayat for two times of Village Mehatpur.</i>	

11. A bare perusal of the above chart would show that as far as

the education of the candidates is concerned, both have studied upto Matric. There is also not much difference in the age of the petitioner and respondent No.4 as the petitioner is stated to be 57 years of age and respondent No.4 is stated to be 59 years of age. Further, the petitioner is stated to be having 21 kanals of land, whereas, respondent No.4 owns 5 kanals of land. However, the candidature of the petitioner was recommended by the learned Naib Tehsildar, Mehatpur and learned Sub-Divisional Magistrate, Nakodar. Although, the recommendation of lower Revenue Officials is not binding on learned Collector, however, due consideration is to be accorded to such recommendations as they are in a position to assess the suitability of a candidate and such recommendation would have some persuasive value. In this regard, reference can be made to the observations made in the case of *Hakam Singh vs Financial Commissioner (Revenue), Punjab, 2016(4) RCR (Civil) 335* and *Atma Singh vs The Financial Commissioner, Revenue, Punjab, 2016(1) LAR 592*.

11.2 That apart, it is not disputed that the petitioner had remained Member Panchayat for two times of Village Mehatpur, Tehsil Nakodar, District Jalandhar and it is well settled that being a Sarpanch or Member Panchayat reflects upon the popularity of a particular candidate in the village and is considered as a merit and not as a de-merit. In this regard, reference can be made to a judgment rendered by the Hon'ble Punjab and Haryana High Court in the case titled “*Lakhwinder Singh v. State of Haryana*”, reported as *2016(2) R.C.R.(Civil) 4*; wherein this Court has made following observations:

“...Rather in view of Rule 15(d)(e) of the Punjab Land Revenue Rules personal influence, character,

ability, freedom from indebtedness and strength and importance of the community from which selection of a Lambardar is to be made is also required to be considered for appointment. Once a person is appointed as a Sarpanch, it means that majority of the residents of the village are in his favour and that he has personal influence over the residents of the village. It cannot be taken as a negative ground...”

12. Furthermore, in the case of *Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273*; it was held by the Division Bench of this Court that choice of the District Collector cannot be lightly set aside, even if two views are possible, unless there is any patent illegality or perversity therein. It is also well established that the learned Collector is the main 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, could not have been ignored in a cavalier manner by the learned Financial Commissioner.

13. As regards the allegation that there is an FIR No.112 dated 03.10.2008 under Sections 323, 324, 148 and 149 IPC registered against the petitioner; it is noticed from the copy of the judgment dated 03.09.2012 (Annexure P-4) passed by learned Sub Divisional Judicial Magistrate, Nakodar, that the petitioner was found innocent during investigation itself.

14. Considering the totality of circumstances, I am of the considered view that petitioner was rightly appointed by learned Collector, Jalandhar, as *Lambardar* of Village Mehatpur, which appointment was upheld by the learned Commissioner, Jalandhar Division, Jalandhar. However, the petitioner's appointment was wrongly set aside by the learned

Financial Commissioner (Appeals), Punjab vide its order dated 06.02.2023

(Annexure P-3), which is unjustified and unwarranted. Resultantly, the impugned order dated 06.02.2023 (Annexure P-3), is set aside.

15. In view of the above, the instant writ petition is allowed and the order dated 03.10.2019 (Annexure P-1) passed by learned Collector, Jalandhar, appointing the petitioner as *Lambardar* of Village Mehatpur, Tehsil Nakodar, District Jalandhar, is upheld.

16. All pending applications (if any) shall also stand closed.

November 12, 2024
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(HARSH BUNGER)
JUDGE

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