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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13638-2024 (O/M)

Date of decision : 05.12.2024

Jagmohan Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Aman Partap Singh, Advocate
for the petitioner.
Ms. Jasleen Kaur Sandhu, DAG Punjab.
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HARSH BUNGER, J. (ORAL)

1. Petitioner (Jagmohan Singh) has filed the instant civil writ petition under Article 226 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 04.12.2018 (Annexure P-1), passed by learned District Collector, Ludhiana (in short 'Collector'), whereby respondent No. 5 (Ram Dass Singh) was appointed as Lambardar (SC) of village Somal Kheri, Tehsil Payal, District Ludhiana.

1.1 A further prayer has been made for setting aside the order dated 09.12.2020 (Annexure P-7), passed by learned Commissioner, Patiala Division, Patiala (in short 'Divisional Commissioner') and also order dated 09.01.2023 (Annexure P-9), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner'), whereby the appeal and revision, filed by the petitioner were dismissed.

2. Briefly, on demise of Shri Gurdev Singh, previous Lambardar (SC) of village Somal Kheri, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation made

in the village, five applications (including the one submitted by the petitioner and other by respondent No. 5-Ram Dass Singh), were received. The Naib Tehsildar, Malaudh, recommended the name of petitioner for appointment to the aforesaid vacancy, whereas learned Sub Divisional Magistrate, Payal, recommended the name of of respondent No. 5 for appointment to the aforesaid vacancy and the matter was forwarded to learned Collector.

2.1 The learned Collector, upon appreciating the relative merits and demerits of the candidates, found respondent No. 5 as most suitable candidate and appointed him as Lambardar (SC) of village Somal Kheri, vide order dated 04.12.2018 (Annexure P-1).

2.2 It is apposite to state here that the petitioner was non-suited by learned Collector by observing that he is doing a job in PLRS Society at Ludhiana (West), which is far away from the village and, therefore, would not be able to meet the villagers.

2.3 Being aggrieved against learned Collector's order dated 04.12.2018 (Annexure P-1), the petitioner preferred an appeal before learned Divisional Commissioner, however, the same was dismissed, vide order dated 09.12.2020 (Annexure P-7). Still aggrieved, the petitioner preferred a revision petition (ROR-670-2020) before learned Financial Commissioner, which has also been dismissed, vide order dated 09.01.2023 (Annexure P-9). Hence, the instant civil writ petition.

3. Heard.

4. In the instant case, respondent No. 5 has been appointed as Lambardar (SC) of village Somal Kheri by learned Collector. Learned

Even learned Financial Commissioner has maintained the order passed by learned Collector by observing as under :-

“6. I have heard counsels for both the parties and perused the orders of the courts below. I have also gone through the file, written submissions made by the parties and documents produced in support of their case. On perusal of the file, I find that a process to fill up the vacant post of S.C. Lambardar had been initiated on death of Gurdev Singh, the previous lambardar of the village Somal Kheri, Tehsil Payal, District Ludhiana. After looking into the record of the case, I find that respondent is a suitable candidate for the post of Lambardar as he is a young person of 39 years and the Sub-Divisional Magistrate, Payal has also recommended the candidature of the respondent. The petitioner has not been able to point out any illegality in the choice made by the District Collector. Further, it is established that petitioner is doing a private job at PLRS Society and thus clearly show that the petitioner is not available to the residents of village and in the matter of appointment of Lambardar, the availability of the candidate to the village community is of the paramount consideration which cannot be compromised. The Sub-Divisional Magistrate, Payal, who has mentioned in his report that the respondent is a suitable candidate for the post of Lambardar in comparison to the petitioner Jagmohan Singh against whom the cases are pending before the Court of Additional Civil Judge, Payal and on the other hand, the respondent is having a clean and unblemished record. Hon'ble Punjab and Haryana High Court in the case titled as Satpal versus State of Haryana and others, 2011 (3) L.A.R. 636 (P and H) has held that Collector is the appointing authority of the Lambardar. It is the duty of the Collector to appoint such persons in the office of Lambardar, who are eligible and competent to carry out the duties efficiently. He is in an advantageous

position to examine the merits and demerits of the candidates. Choice of the Collector in the matter of appointment of village Lambardar should not normally be interfered with, unless the Collector has taken a perverse view and has not exercised his choice judiciously. In the present case, I find nothing perverse in the order of the District Collector as well as the Commissioner which warrants me to interfere in the orders of the courts below.

7. Resultantly, the present revision petition is dismissed and the order dated 09.12.2020 passed by Commissioner, Patiala Division, Patiala and order dated 04.12.2018 passed by the District Collector, Ludhiana are upheld. Copy of this order be communicated to the courts below. Record be returned and file be consigned to the record room.”

4.1 A perusal of the above extracted order would show that respondent No. 5 is younger in age than the petitioner and his name was also recommended by learned Sub Divisional Magistrate, Payal. That apart, the petitioner is doing a private job at PLRS Society, Ludhiana (West) and, therefore, his availability to the villagers and also attending the duties of Lambardar would be an issue. Respondent No. 5 has been found to be more suitable person with clean and unblemished record. Respondent No. 5 has clear edge over the petitioner and all the courts below have concurrently held in his favour. It is a well settled law that in the matter of appointment of Lambardar, the choice of Collector is not to be lightly interfered with even if two views are possible. In this regard, reliance can be place upon a Division Bench judgment of this Court in ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab, 2016 (1) RCR (Civil) 273***, wherein it was held that the choice of

the District Collector cannot be lightly set aside unless there is any illegality or perversity therein.

5. Learned counsel for petitioner has failed to point any illegality or perversity in the choice made by learned Collector.

6. I have also considered the submissions made on behalf of petitioner that he is younger in age than respondent No. 5 and also that he has a hereditary claim being son of deceased Lambardar, however, I do not find any merit in these submissions. No doubt the petitioner has studied upto 10+2, whereas respondent No. 5 has studied upto matric, however, on that account, respondent No. 5 cannot be held to be ineligible for appointment as Lambardar (SC). Further, as regards the hereditary claim, as pleaded by petitioner, the same has been held to be ultra vires the Constitution, by a Division Bench of this Court in ***Karnail Singh Versus State of Haryana etc., 1973 PLJ 676.***

7. Considering the totality of circumstances, I do not find any merit in the instant civil writ petition and the same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

05.12.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No