

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14103-2024 (O/M)

Date of decision : 30.07.2024

Harnek Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Krishan Singh Dadwal, Advocate
for the petitioner.

Mr. Beant Singh Seemar, Advocate
for caveator-respondent No. 4.

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HARSH BUNGER, J.

1. Petitioner (Harnek Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, seeking a writ in the nature of certiorari for setting aside of order dated 17.03.2016 (Annexure P-1), passed by respondent No. 3 (Deputy Commissioner-cum-Collector, Shaheed Bhagat Singh Nagar), appointing respondent No. 4 (Nachhatar Singh) as Lambardar (General) of village Jagatpur, Tehsil Balachaur, District Shaheed Bhagat Singh Nagar (in short 'SBS Nagar').

1.1 A further prayer has been made for setting aside the order dated 01.02.2024 (Annexure P-3), passed by learned Financial Commissioner, Punjab (in short 'Financial Commissioner'), whereby order dated 17.12.2019 (Annexure P-2), passed by learned Commissioner, Rupnagar Division, Rupnagar (in short 'Divisional Commissioner'), has been set aside and the order dated 17.03.2016 (Annexure P-1), passed by

learned District Collector, SBS Nagar (in short 'Collector'), appointing respondent No. 4 as Lambardar of aforesaid village, has been restored.

2. Briefly, on demise of Shri Hukam Singh, previous Lambardar (General) of village Jagatpur, Tehsil Balachaur, District SBS Nagar, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation made in the village for filling up the aforesaid vacancy, 8 applications (including the one filed by petitioner and other by respondent No. 4) were received. The Naib Tehsildar, Balachaur as well as the Sub Divisional Magistrate, Balachaur, recommended the name of respondent No. 4 (Nachhatar Singh) for appointment as Lambardar of village Jagatpur and the file was sent to the learned Collector.

2.2 The learned Collector, vide its order dated 17.03.2016 (Annexure P-1), after considering the relative merits and demerits of the candidates, appointed respondent No. 4 (Nachhatar Singh) as Lambardar of village Jagatpur, Tehsil Balachaur, District SBS Nagar.

2.3 Feeling aggrieved against the aforesaid order dated 17.03.2016 (Annexure P-1), passed by the learned Collector, the petitioner preferred an appeal before the learned Divisional Commissioner, which came to be allowed, vide its order dated 17.12.2019 (Annexure P-2) and the matter was remanded to the learned Collector to re-hear the parties and decide the matter afresh by observing as under :-

“4. After considering the submissions/assertions put forth by the contestant/s I am of the view that the main contention of the appellant is that the candidate chosen by the Collector SBS Nagar has political affiliations and mostly remains outside the village and is not available to the people whereas the appellant is a

permanent resident of the village; understands the responsibilities that he has to shoulder and is available to the public 24 hours. Perusal of Order of DC-cum-Collector, SBS Nagar shows that he has not discussed the point of political alignment, if any, of the chosen candidate and his availability in the village. I think that these issues need to be re-examined thoroughly and hence I remand the case back to Collector SBS Nagar to rehear the parties and decide the matter afresh.”

3 Being dis-satisfied with the learned Divisional Commissioner's order dated 17.12.2019 (Annexure P-2), respondent No. 4 preferred an appeal (ROA-05-2020) before the learned Financial Commissioner, who vide its order dated 01.02.2024 (Annexure P-3), set aside the order dated 17.12.2019 (Annexure P-2), passed by the learned Divisional Commissioner and restored the order dated 17.03.2016 (Annexure P-1), passed by the learned Collector.

4. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court, for the relief(s), as noticed above.

5. Learned counsel for petitioner submits that the learned Collector as well as learned Financial Commissioner have erred in law and facts in passing the impugned orders. It is submitted that respondent No. 4 had based his case on the basis of hereditary claim, which has already been held to be ultra vires by the Constitution of India and even then respondent No. 4 has been appointed as Lambardar, which is untenable in law. It is further submitted that the learned Divisional Commissioner has rightly remanded the matter to the learned Collector for fresh decision as the learned Collector had failed to consider the issue of non-availability of

respondent No. 4 in the village and also political affiliation of respondent No. 4. It is next submitted that although learned counsel for the petitioner had not appeared before the learned Financial Commissioner and the case had been decided by taking into consideration the submissions made on behalf of the petitioner before the learned Divisional Commissioner, but even those submissions have not been considered in its right perspective. Accordingly, it is submitted that the impugned orders be set aside and the order dated 17.12.2019 (Annexure P-2), passed by learned Divisional Commissioner be restored.

6. Per contra, learned counsel appearing for caveator-respondent No. 4 has opposed the submissions made on behalf of the petitioner and has submitted that the learned Collector had passed a well reasoned and justified order, which did not call for any interference, however, the same was wrongly set aside by the learned Divisional Commissioner and the matter was remanded to the learned Collector for fresh decision. It is further submitted that the learned Financial Commissioner has rightly set aside the order of learned Divisional Commissioner and restored the learned Collector's order. It is next submitted that respondent No. 4 is more meritorious than the petitioner on all counts inasmuch as respondent No. 4 is younger in age and has more land-holding than the petitioner and even all the lower revenue officers had recommended the name of respondent No. 4 for appointment to the post of Lambardar of village Jagatpur. It is also submitted that even if the aspect of hereditary claim is kept out of consideration, even then respondent No. 4 has better merits than the petitioner and he has been rightly appointed as Lambardar of village

Jagatpur by learned Collector. Accordingly, prayer for dismissal of the instant civil writ petition has been made.

7. I have heard learned counsel for the parties and have also perused the paper book with their able assistance.

8. Here, it would be apposite to state the relative merits of the candidates, which can be summed up as under :-

Sr. No.	Particulars	Petitioner (Harnek Singh)	Respondent No. 4 (Nachhatar Singh)
1.	Age	At the filing of application for appointment to the post of Lambardar the age of petitioner was 42 years and present the petitioner is 50 years of age	At the filing of application for appointment to the post of Lambardar the age of respondent No. 4 was 38 years and present respondent No. 4 is 46 years of age
2.	Educational Qualification	12th class pass	12th class pass
3.	Residential status	Permanent resident of the village	Permanent resident of the village
4.	Land holding	9 Kanal	39 Kanal 2 Marla
5.	Recommended by	--	Naib Tehsildar, Balachaur, Balachaur and Sub Divisional Magistrate, Balachaur

8.1 A perusal of the above comparison of the candidates would show that respondent No. 4 is younger in age than the petitioner. So far as education is concerned, both the candidates are equally educated i.e. upto 12th class and both are permanent residents of the village. It is further borne out that respondent No. 4 has more land-holding than the petitioner and that apart, name of respondent No. 4 was recommended by both the lower revenue officers.

8.2 A perusal of the order dated 17.03.2016 (Annexure P-1), passed by learned Collector shows that the learned Collector considered the relative merits of all the candidates and appointed respondent No. 4 as Lambardar of village Jagatpur, by observing as under :-

“ The candidates who came present were heard carefully and the case file was thoroughly examined. After hearing to the candidates present and examining the file, I have come to the conclusion that the candidate Sh. Nachhatar Singh son of Hukum Singh is a more suitable candidate than all the other candidates. Candidates Sh. Jarnail Singh, Harbans Singh and Santokh Singh have not submitted any school certificates regarding their educational qualification. Without school certificate, their educational qualification cannot be considered. The educational qualification of the candidate Sh. Jasveer Singh is Middle and the educational qualification of the candidate Sucha Singh is Under Middle. Three candidates Sh. Nachhatar Singh, Ranjit Singh and Harnek Singh have educational qualification of 10+2 passed, which is more than all the other candidates. The candidate Sh. Nachhatar Singh owns more land than the other candidate Harnek Singh. Candidate Sh. Nachhatar Singh is the owner of 39 kanal 02 marla of land, while candidate Sh. Harnek Singh is the owner of 9 kanal land. Candidate Sh. Nachhatar Singh, is younger than the rest of the candidates and is son of the deceased lambardar. Apart from this, Naib Tehsildar Balachaur (Circle Revenue Officer) and Sub Division Magistrate, Balachaur have also recommended the name of the candidate Sh. Nachhatar Singh son of Hukam Singh for the post of Lambardar. Therefore, I, agreeing with the reports of Naib Tehsildar Balachaur

and Sub Divisional Magistrate Balachaur, hereby appoint candidate Sh. Nachhatar Singh son of Hukam Singh resident of village Jagatpur, Tehsil Balachaur, District Shaheed Bhagat Singh Nagar as new Lambardar (General) of village Jagatpur, Tehsil Balachaur in place of Sh. Hukam Singh deceased Lambardar (General) village Jagatpur, Tehsil Balachaur.. The appointed Lambardar is instructed to submit an application for issuance of Sanad after the expiration of the limitation period. The file, after completion and compliance, should be consigned to the record room.”

8.3 It is evident from the learned Collector's order that respondent No. 4 has been appointed as Lambardar of village Jagatpur on the following considerations :-

- a) respondent No. 4 is younger in age than all other candidates ;
- b) respondent No. 4 as well as petitioner have educational qualification of 10+2 pass ;
- c) respondent No. 4 owns more land than the petitioner ;
- d) respondent No. 4 is son of deceased Lambardar ;
- e) respondent No. 4 was recommended by the Tehsildar, Balachaur as well as Sub Divisional Magistrate, Balachaur for appointment as Lambardar.

8.4 It is apparent that respondent No. 4 has not been appointed solely on the basis of his hereditary claim.

8.5 In ***Mahavir Singh Versus Khiali Ram and Others***, 2009(1) RCR (Civil) 757, Hon'ble Supreme Court held that with regard to the appointment of a Lambardar in the State of Punjab, age of a candidate is a relevant factor. As far as the recommendations by the lower Revenue

Officer is concerned, although, the Collector is not bound by the recommendation made by the Revenue Authorities in favour of a candidate; 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 Versus The Financial Commissioner, Revenue, Punjab***, 2016(1) LAR 592.

8.6 Furthermore, in the case of ***Kuldip Singh Versus 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.

9. In view of the aforementioned circumstances, I am of the considered view that the order dated 17.03.2016 (Annexure P-1), passed by learned Collector is well reasoned and justified, which does not call for any interference. Moreover, the learned Collector's order dated 17.03.2016 (Annexure P-1) was further upheld/restored by the learned Financial Commissioner, Punjab. Accordingly, there is no scope for any interference in the impugned orders, resultantly, the instant civil writ petition fails and the same is accordingly dismissed and the order dated 17.03.2016

(Annexure P-1), passed by learned District Collector, SBS Nagar, appointing respondent No. 4 as Lambardar of village Jagatpur, Tehsil Balachaur, District SBS Nagar, is upheld.

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

(HARSH BUNGER)
JUDGE

30.07.2024
sjks

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