

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16304-2015 (O/M)

Date of decision : 01.08.2024

Tota Singh

..... Petitioner

Versus

Financial Commissioner (Revenue), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Simranjeet Singh, Advocate
for the petitioner.
(Through Video Conferencing)

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. P.P.S. Brar, Advocate
for respondent No. 4.

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HARSH BUNGER, J.

1. Petitioner (Tota 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 02.04.2013 (Annexure P-5), passed by learned District Collector, Bathinda (in short 'Collector'), appointing respondent No. 4 (Surinder Singh) as Lambardar of village Ram Niwas, Tehsil Rampura Phul, District Bathinda.

1.1 A further prayer has been made for setting aside the order dated 26.02.2014 (Annexure P-6), passed by learned Commissioner, Faridkot Division, Faridkot (in short 'Divisional Commissioner') as well as order dated 28.04.2015 (Annexure P-7), passed by learned Financial Commissioner (Revenue), Punjab (in short 'Financial Commissioner'), dismissing the appeal and revision, filed by the petitioner, respectively.

2. Briefly, on dismissal of Shri Lachman Singh, previous Lambardar of village Ram Niwas, Tehsil Rampura Phul, District Bathinda, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation made in the village for filling up the aforesaid vacancy, 2 candidates i.e. petitioner (Tota Singh) and respondent No. 4 (Surinder Singh) were in the fray.

2.1 It appears that the Assistant Collector 2nd Grade, Rampura Phul as well as learned Assistant Collector 1st Grade, Rampura Phul recommended the name of petitioner (Tota Singh) for appointment to the aforesaid vacancy of Lambardar.

2.2 It transpires that learned Collector, Bathinda, vide order dated 13.05.2011 (Annexure P-3), appointed present petitioner (Tota Singh) as Lambardar of village Ram Niwas. The aforesaid Collector's order dated 13.05.2011 (Annexure P-3) was challenged by respondent No. 4 (Surinder Singh) by filing an appeal before the learned Divisional Commissioner, which came to be allowed, vide order dated 16.01.2013 (Annexure P-4), whereupon the learned Collector's order dated 13.05.2011 (Annexure P-3), was set aside and the matter was remanded to the learned Collector for deciding the case afresh.

2.3 On remand, the learned Collector, vide order dated 02.04.2013 (Annexure P-5), appointed respondent No. 4 (Surinder Singh) as Lambardar of village Ram Niwas.

3. Being dis-satisfied with the aforesaid order dated 02.04.2013 (Annexure P-5), passed by learned Collector, the petitioner preferred an appeal before the learned Divisional Commissioner, which was dismissed, vide order dated 26.02.2014 (Annexure P-6) and further revision filed by

the petitioner before learned Financial Commissioner was also dismissed, vide order dated 28.04.2015 (Annexure P-7).

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 revenue authorities below have erred in law and facts in appointing respondent No. 4 (Surinder Singh) as Lambardar of village Ram Niwas by ignoring the better merits of the petitioner. It is submitted that the name of the petitioner was recommended by lower revenue officers and the petitioner is son of previous Lambardar, therefore, he had a hereditary claim as well. It is further submitted that the petitioner has been wrongly non-suited by the revenue authorities below on the ground that there was an FIR against him, despite the fact that the petitioner has already been acquitted in the said FIR. It is next submitted that although the petitioner is an illiterate person, however, there is no bar under the Punjab Land Revenue Rules in not appointing an illiterate person to the post of Lambardar. With the aforesaid submissions, learned counsel for petitioner has submitted that the impugned orders be set aside and the petitioner (Tota Singh) be appointed as Lambardar of village Ram Niwas.

6. Per contra, learned counsel appearing for respondent No. 4 has opposed the submissions made on behalf of the petitioner by submitting that the learned Collector had considered the relative merits and demerits of the candidates and had rightly appointed respondent No. 4 (Surinder Singh) as Lambardar of village Ram Niwas. It is submitted that the Collector's order was further upheld by learned Divisional Commissioner as well as learned

Financial Commissioner. It is also submitted that as per settled law, the choice of the Collector in the matter of appointment of Lambardar is to be treated as final and the same is not to be lightly interfered with, unless there is any patent illegality or perversity therein. It is next submitted that even otherwise, respondent No. 4 is more meritorious than the petitioner and the orders passed by the revenue authorities below, appointing respondent No. 4 as Lambardar of village Ram Niwas, do not call for any interference. 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. In the instant case, respondent No. 4 has been appointed as Lambardar by the learned Collector, vide order dated 02.04.2013 (Annexure P-5), by observing as under :-

“4. The contentions put forth by advocates of both the parties were considered and the record which was brought on file was considered. While remanding this case, Honorable Commissioner, Faridkot Division, Faridkot vide his order dated 16/01/2013 remanding this case has observed that Surinder Singh candidate is 10th pass and has been a Panch of village for 10 years. That is why a literate person should be given primacy. On the other hand Tota Singh is illiterate against him criminal case was registered. Although he has been acquitted in the criminal case still if a person without stigma and more literate person is available then the primacy should be given to him rather than an illiterate candidate and a person who is having court case. As far as land is concerned Surinder Singh candidate although has less land than Tota Singh candidate, still 10 Kanals and 16

Marlas land is enough for farming. In these circumstances Shri Surinder Singh seems to be better candidate out of the 2 candidates. That is why Shri Surinder Singh son of Sajjan Singh (general cateogry) is appointed as Lambardar village Ram Niwas, which post got vacant due to dismissal of Lachhman Singh. Due to this appointment, his property will remain under lien of the government. Without prior permission of Collector, he will not be able to sell his property, transfer it in anyway. Regarding this comments with these made in jamabandi with red ink. After the period of limitation of appeal candidate may be given Lumberdari. File may be consigned to the record room.

8.1 It is, therefore, evident that respondent No. 4 has an edge over the petitioner, primarily on the ground that the petitioner is an illiterate person and respondent No. 4 was found to have educational qualification upto 10th class. Further, petitioner had remained Panch of village for 10 years. Moreover, respondent No. 4 was considered a person with clean antecedents, whereas the petitioner had a criminal case against him, although he was acquitted therefrom. Still further, the Collector's order has been further upheld by the learned Divisional Commissioner as well as learned Financial Commissioner.

8.2 Although, petitioner owns more land than respondent No. 4; however, it is observed that as far as holding of land is concerned, same is taken into consideration only for the purpose of security towards government revenue collected by the Lambardar. Respondent No. 4 has 10 Kanals 16 Marlas of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the Lambardar.

Moreover, in case of ***Gurpreet Singh Versus Financial Commissioner***

(Revenue), Punjab, 2017 (1) RCR (Civil) 233, this Court has observed that land revenue stood abolished in both the State of Punjab and Haryana, long back, thus owning land by the candidates for the post of Lambardar would not be of much significance any further.

8.3 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 choice of the Collector is required to be respected.

8.4 As regards the contention of the petitioner that under the Punjab Land Revenue Rules, there is no bar in appointing an illiterate person to the post of Lambardar is concerned, it is observed that similar issue came up for consideration before this Court in the case of **Baljeet Singh Versus State of Punjab**, 2012(5) RCR (Civil) 715; wherein it was held that preference should be given to an educated person. .

8.5 The Hon'ble Apex Court in **Ishwar Singh Versus Satbir Singh**, 2009(3) RCR (Civil) 955; Hon'ble Supreme Court of India has observed as under:-

“6. The Lambardar is a village headman. His main job is the collection of revenue. He is paid fixed remuneration as well as some commission. The criterion for appointment to the post of Lambardar, inter-alia, includes educational qualification, age, experience in

working of Lambardari, land and property, character, ability and freedom from indebtedness...”

8.6 That apart, it is worth-mentioning that the "**Lambardari Rules**" do not prescribe for any minimum educational qualifications for appointment of a Lambardar. However, considering the duties to be performed by the Lambardar, as envisaged under Rule 20 of the Punjab Land Revenue Rules; it would be in the fitness of things to prefer an educated person. Rule 20 of the Punjab Land Revenue Rules (as applicable to Punjab), are reproduced below for the ready reference:-

"20. Duties of headman.-- In addition to the duties imposed upon headman by law for any purpose, a headman shall--

(i) collect by due date all land revenue and all sums, recoverable as land revenue from the estate, or sub-division of an estate in which he holds office, and pay the same personally or by revenue money order or by remittance of currency notes through the post or at places where treasury business is conducted by the State Bank of India, by cheque on a local Bank at the place and time appointed in that behalf of the Revenue Officer or assignee empowered by Government to receive it;

(ii) collect the rents and other income of the common land, and account for them to the persons entitled thereto;

(iii) acknowledge every payment received by him in the books of the landowners and tenants;

(iv) defray joint expenses of the estate and render accounts thereof as may be duly required of him;

(v) report to the tehsildar the death of any assignee of land revenue of Government pensioner residing in the estate, or the marriage or re-marriage of a female drawing a family pension and residing in the estate; or the absence of any such person for more than a year;

- (vi) report to the tehsildar all encroachments on roads including village roads or on Government waste lands and injuries to, or appropriation of nazul property situated within the boundaries of the estate;*
- (vii) report any injury to Government buildings made over to his charge;*
- (viii) carry out, to the best of his ability, any orders that he may receive from the Collector requiring him to furnish information or to assist in providing on payment supplies or means of transport for troops or for officers of Government on duty;*
- (ix) assist in such manner as the Collector may from time to time direct at all crop inspections, recording of mutations, surveys, preparation of records of right, or other revenue business carried on within the limits of the estate;*
- (x) attend the summons of all authorities having jurisdiction in the estate, assist all officers of the Government in the execution of their public duties, supply to the best of his ability any local information which those officers may require, and generally act for the landowners, tenants and residents of the estate of sub-division of the estate in which he holds office in their relations with Government;*
- (xi) report to the patwari any outbreak of disease among animals or human beings;*
- (xii) report to the patwari the deaths of any right-holders in their estates;*
- (xiii) report any breach or cut in a Government Irrigation canal or channel to the nearest canal officer or canal patwari;*
- (xiv) under the general or special direction of the Collector, assist by the use of his personal influence and otherwise all officers of Government and other persons, duly authorized by the Collector, in the collection and enrolment of recruits for military service whether combatant or non-combatant;*

(xv) render all possible assistance to the village postman, while passing the night in the village, in safeguarding the cash and other valuables that he carries."

8.7 Further, Para 307 of the Punjab Land Administration Manual provides that the village communities/landowners/tenants and other residents, function and deal with the State functionaries through Lambardar in every walks of life. The Lambardars are bound to attend the meeting when summoned by officers of Government and aid them in the execution of their public duties. Their important functions, to help the Government machinery as regards the prevention and detection of crime are very significant. Besides the other indicated duties, the Lambardars are also required to collect and pay into the treasury the land revenue, to report to the Tehsildar, to aid in carrying out harvest inspections, surveys etc., to render all possible assistance to the village postman, while passing the night in the village, in safeguarding the cash and other valuables that he carries and to assist the authorities during the course of consolidation proceedings.

8.8 In this view of the matter and considering the nature of the duties to be performed by a Lambardar, it is in the fitness of things that a person, who is literate, should have preference over an illiterate person.

8.9 Furthermore, respondent No. 4 had remained Panch of the village 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 this Court in the case titled ***Lakhwinder Singh Versus 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...”

8.10 It appears that the petitioner had criminal case against him, although he has been acquitted and in these circumstances, if a person with clean antecedents has been preferred, no fault can be found with the same.

9. In view of the above discussion, there is no scope for any interference in the impugned orders, resultantly, the instant civil writ petition fails and the same is accordingly dismissed. The order dated 02.04.2013 (Annexure P-5), passed by learned Collector, appointing respondent No. 4 (Surinder Singh) as Lambardar of village Ram Niwas, Tehsil Rampura Phul, District Bathinda, which has been further upheld by the learned Divisional Commissioner as well as learned Financial Commissioner, is maintained.

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

(HARSH BUNGER)
JUDGE

01.08.2024
sjks

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