

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

**CWP-16664-2015**

Date of Decision: 07.02.2024

Vikram Singh

..... Petitioner

Versus

Financial Commissioner and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Vineet Chaudhary, Advocate, for the petitioner.  
Ms. Upasana Dhawan, Assistant Advocate General, Haryana.  
Mr. Parminder Singh, Advocate, for respondent No.2.  
Mr. R.S.Malik, Advocate and  
Mr. Pankaj Rana, Advocate, for respondent No.3.

**Rajesh Bhardwaj, J.**

Prayer in the present petition is for setting aside the impugned order dated 27.04.2015 (Annexure P-3) passed by respondent No.1, vide which revision petitions against order dated 28.06.2013 (Annexure P-1) and order dated 07.03.2015 (Annexure P-2) passed by the learned Collector and learned Commissioner, respectively, filed by respondents No.2 and 3 were allowed and case was remanded to the learned Collector for fresh adjudication and to restore the order dated 28.06.2013 (Annexure P-1) vide which the petitioner was appointed as a Lambardar.

Adumbrated facts of the case are that on the death of earlier General Category Lambardar, namely, Shashi Bhushan, of village Mohri Jagir, Sub Tehsil Nigdu, District Karnal on 08.07.2011, post of Lambardar fell vacant in the village. For filling up the vacancy, process for the appointment of new Lambardar was initiated. *Mushtri Munadi* was conducted in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, 15 applications were received

including the petitioner (Vikram Singh), respondent No.2 Prem Kumar and respondent No.3 (Satbir Singh). Thereafter, only six candidates remained in fray. Naib Tehsildar and Assistant Collector 2<sup>nd</sup> Grade, Nigdu verified their character and antecedents from the concerned Police Station and recommended the name of Satbir Singh (respondent No.3) for the appointment of Lambardar to Sub Divisional Officer (Civil), Karnal. Thereafter, one candidate, namely, Virbhan did not appear before the Assistant Collector Ist Grade and Sub Divisional Officer (Civil), Karnal and he was proceeded *ex parte*. Ultimately, SDO (Civil) recommended the name of Satbir Singh (respondent No.3) to the Collector for his appointment as Lambardar. On appreciation of the merits and demerits of all the candidates, Vikram Singh (petitioner) was found to be 28 years old and MA by qualification and besides this he owned 19 Kanals 02 Marlas of agricultural land. So far as Satbir Singh (respondent No.3) is concerned, he was found to be 30 years old and B.Sc. by qualification and having land holding of 17 Kanals 14 Marlas. Prem Kumar (Respondent No.2) was found to be 47 years old and 10<sup>th</sup> class pass and owner of 28 Kanals 16 Marlas of cultivable land in the village. On the evaluation of the inter-se merits of all the candidates, learned Collector appointed Vikram Singh (petitioner) as Lambardar of the village vide order dated 28.06.2013 (Annexure P-1). Aggrieved by the same, other two candidates, namely, Satbir Singh (respondent No.3) and Prem Kumar (respondent No.2) assailed the same by way of filing of their independent appeals before the learned Commissioner. After hearing both the sides, the learned Commissioner finding no perversity in the order passed by the Collector, dismissed both the appeals, vide order dated 07.03.2014 (Annexure P-2). Still aggrieved, respondents

No.2 and 3 filed their independent ROR-11-2013-14 and ROR-441-2013-14, respectively, before the learned Financial Commissioner. Parties were heard again by the learned Financial Commissioner. However, finding both the orders passed by the learned Collector and the Commissioner unsustainable in the eyes of law, the learned Financial Commissioner set aside both these orders and remanded the case to the learned Collector for decision afresh, vide order dated 27.04.2015 (Annexure P-3). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on comparison of the inter-se merits of all the candidates, it is apparent that the petitioner was youngest among all the candidates and he was even more qualified than other candidates, thus, finding him most meritorious and suitable candidate, the learned Collector rightly appointed him as Lambardar of the village. It is submitted that in the appeals filed by respondents No.2 and 3, no perversity was found in the order passed by the Collector and thus, the same was upheld by the learned Commissioner by dismissing the appeals filed by respondents No.2 and 3. It is submitted by him that the learned Financial Commissioner, however, has fallen in error in setting aside the well reasoned order passed by both the learned Collector and the Commissioner. It is submitted that the allegations of encroachment on the Panchayat land were not substantiated against the petitioner rather Civil Suit filed was dismissed as withdrawn on 18.12.2004, which was much prior to the date of his appointment as Lambardar. It is submitted that as per law settled, the order passed by the Collector cannot be interfered with unless the same suffers from any material illegality or perversity,

however, there being no perversity in the order passed by the Collector, which was duly upheld by the Commissioner, the view taken by the Financial Commissioner is totally against the law settled and thus, deserves to be set aside.

Per contra, learned counsel for respondent No.2 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner had illegally encroached the land in Khasra No.106 accordingly made a request for allotment of Shamlat land and agreed to make the value/price thereof. He submits that Resolution No.22 dated 06.02.2004 was passed, wherein, the petitioner admitted his illegal encroachment over the Khasra No.106. He has submitted that from this Resolution, illegal encroachment made by the petitioner is duly proved. He further submits that inhabitants of the village filed a Civil Suit against the petitioner and others, wherein, it was specifically pleaded that the petitioner had forcibly taken the possession of the Panchayat land with the help of anti social element. He submits that without any payment in lieu of the allotment, the petitioner is still in possession of the Panchayat land, but the same has not been appreciated by the learned Collector. He has submitted that respondent No.2 has more land than that of the petitioner. He submits that as the learned Collector failed to appreciate the serious allegations against the petitioner, thus, the same is perverse and hence, the order passed by the learned Financial Commissioner in setting aside both the orders passed by the learned Collector and the Commissioner, suffers from no illegality and thus, the present being devoid of any merit, deserves to be dismissed.

Learned counsel for respondent No.3 also opposed the submissions made by counsel for the petitioner. He has submitted that

respondent No.3 was more suitable candidate for the post as his name was recommended by the Tehsildar and SDM, however, the learned Collector failed to appreciate the facts and has illegally appointed the petitioner as Lambardar of the village, which was further wrongly and illegally upheld by the learned Commissioner. He further submits that the learned Financial Commissioner has rightly set aside the orders passed by the learned Collector and the Commissioner. He also argued on the same line as argued by counsel for respondent No.2, regarding the encroachment made by the petitioner. He submits that thus, the present petition being devoid of any merit deserves to be dismissed.

After hearing learned counsel for the parties and perusing the record, it is apparent that process for the appointment of the new Lambardar was initiated and the petitioner and respondents No.2 and 3 applied for the same. On considering their inter-se merits, the petitioner was appointed as Lambardar of the village by the Collector, which was further upheld by the learned Commissioner as well by dismissing the appeals filed by respondents No.2 and 3. However, learned Financial Commissioner not agreeing with the appointment of the petitioner, set aside both the orders by remanding the case to the Collector for decision afresh on merits. It has been found that there were allegations of encroachment on the Panchayat land by the petitioner regarding which a Civil Suit was also filed. Though it was dismissed as withdrawn vide order dated 18.12.2004, however, it is apparent that the petitioner was a party in that Civil Suit. It has been found from the record that the petitioner had filed an affidavit in Civil Court and a Resolution is also said to have been passed wherein, the petitioner made a request for the allotment of the Shamlat land and agreed to pay the price of

the same. However, these allegations having not been considered by the Collector, his order was found to be perverse. In the overall facts and circumstances of the case, the impugned order dated 27.04.2015 (Annexure P-3) passed by the learned Financial Commissioner in the considered opinion of this Court, suffers from no illegality and the same is upheld.

Learned Collector is directed to hear all the parties concerned on merits and appoint the Lambardar of the village in accordance with law within a period of three months from the date of receipt of certified copy of this order.

It is submitted before this Court that the petitioner is working as Lambardar till date and there is nothing adverse against his working, so he would continue to work as Lambardar till the decision is taken by learned Collector.

Registry is directed to send a copy of this order to the Collector concerned, who on receipt of the same would issue notice to the parties for appearance and proceed with the matter in accordance with law.

Present petition stands disposed of in above terms.

07.02.2024  
sharmila

Whether Speaking/Reasoned  
Whether Reportable

(RAJESH BHARDWAJ)  
JUDGE

: Yes/No  
: Yes/No