

2024.PHHC:149928



231-1

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

**CWP-1228-2017 (O&M)
Date of Decision: 05.11.2024**

Vijay Kumar

..... Petitioner

Versus

The Financial Commissioner (Appeals), Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Prateek Gupta, Advocate and
Mr. Shubham Pathania, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG, Punjab.

Mr. G.S. Nagra, Advocate
for respondent No.4.

HARSH BUNGER J. (ORAL)

Petitioner (Vijay Kumar) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 21.02.2011 (Annexure P-2) passed by the learned District Collector, Kapurthala and order dated 03.08.2016 (Annexure P-7) passed by the learned Financial Commissioner (Appeals), Punjab.

1.1 A further prayer has been made for upholding order dated 19.05.2014 (Annexure P-4) passed by the learned Commissioner, Jalandhar Division, Jalandhar; whereby petitioner has been appointed as Lambardar of Village Panchhat, Tehsil Phagwara, District Kapurthala.

2. Briefly, on account of demise of Sh. Sohan Singh, previous Lambardar of Village Panchhat, Tehsil Phagwara, District Kapurthala; proceedings for filling up the said vacancy were initiated. In pursuance thereof, six applications (including the one submitted by the petitioner and the other submitted by respondent No.4) were received.

2.1 The learned Naib Tehsildar, Phagwara; Tehsildar, Phagwara as well as learned Sub Divisional Magistrate, Phagwara recommended the name of respondent No.4 (Joga Singh) for appointment to the post of Lambardar.

2.2 Thereafter, the matter was forwarded the learned District Collector, Kapurthala, who vide its order dated 21.02.2011 (Annexure P-2), appointed respondent No.4 (Joga Singh) as Lambardar of Village Panchhat.

3. Being dissatisfied with the aforesaid order (Annexure P-2), the petitioner preferred an appeal before the learned Commissioner, Jalandhar Division, Jalandhar, which was allowed vide order dated 19.05.2014 (Annexure P-4); whereby Collector's order was set aside and petitioner (Vijay Kumar) was appointed as Lambardar of Village Panchhat, on the ground that the petitioner was younger in age and owned more land as compared to respondent No.4.

4. Feeling aggrieved against the aforesaid order (Annexure P-4), respondent No.4 preferred a petition, bearing ROA No.31 of 2014, before the learned Financial Commissioner (Appeals), Punjab, which was allowed vide order dated 03.08.2016 (Annexure P-7); whereby the Divisional Commissioner's order (Annexure P-4) was set aside and Collector's order (Annexure P-2), appointing respondent No.4 (Joga Singh) as Lambardar of Village Panchhat; was restored.

5. In the aforementioned circumstances, petitioner has filed the

present writ petition before this Court, seeking relief(s) as noticed hereinabove.

6. Heard.

7. Here, it would be apposite to state the relative merits of the petitioner and respondent No.4 (as noticed by the learned District Collector); which can be summed up as under:-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Vijay Kumar)</i>	<i>Resp. No.4 (Joga Singh)</i>
<i>1</i>	<i>Age</i>	<i>59 years</i>	<i>61 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>Matric</i>	<i>M.A.</i>
<i>3</i>	<i>Land holding/s</i>	<i>6 Kanal-18 Marla</i>	<i>2 Kanal-5 Marla</i>
<i>4</i>	<i>Recommended by</i>	<i>---</i>	<i>Naib Tehsildar, Phagwara;Tehsildar, Phagwara and Sub Divisional Magistrate, Phagwara</i>
<i>5</i>	<i>Remarks</i>	<i>Retired as a Conductor from P.R.T.C.</i>	<i>Retired as a Teacher from Government School</i>

8. Concededly, the learned District Collector, Kapurthala, upon finding respondent No.4 (Joga Singh) to be more suitable for the post of Lambardar, on the grounds that he was a retired government teacher; had studied up to M.A.; and his name was also recommended by the lower Revenue Officials; appointed him as Lambardar of Village Panchhat, vide order dated 21.02.2011 (Annexure P-2).

8.1 However, the said order (Annexure P-2) was set aside by the learned Divisional Commissioner, Jalandhar vide order dated 19.05.2014 (Annexure P-4); whereby the petitioner (Vijay Kumar) was appointed as Lambardar of Village Panchhat, only on the ground that he was younger in age and owned more land than respondent No.4.

9. No doubt, the age of a candidate is a relevant factor for appointment to the post of Lambardar and the Hon'ble Supreme Court in

also held that age of a candidate is a relevant factor; however, the age of a person is to be considered in the context of his physical ability and capacity to discharge his duties as a headman of the village. No such plea has been raised that respondent No.4 is incapacitated from discharging the functions of a Lambardar, in view of his age. There is nothing on record suggestive of the fact that any complaint was made against him that he is not able to render his services properly owing to his old age. In this scenario, rejecting the claim of respondent No.4 on the ground that he is older than the petitioner, especially when he was appointed as Lambardar by the learned Collector; may amount to injustice to him. Similar view was taken by a Division Bench of this Court in ***“Ram Kumar Versus The Financial Commissioner, Haryana and others”*, 2013 (2) RCR (Civil) 1038.**

10. 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 about 2 Kanal-5 Marla 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.

11. Moreover, it is well settled that in the matter of appointment of Lambardar, the choice of learned Collector is not to be lightly interfered with, even if two views are possible; as held by a Division Bench of this Court in ***“Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab”, 2016(1) RCR (Civil) 273.***

12. That apart, I have also gone through order dated 03.08.2016 (Annexure P-7) passed by the learned Financial Commissioner (Appeals), Punjab; the relevant extract whereof reads as under:-

“ - x - x -

6. I have heard both the parties in this regard. What is important to see the grounds on which learned Commissioner has passed orders. This is important because in this case the District Collector has passed a detailed order after considering the merits and demerits of all the candidates which were available in this case. The Ld. Commissioner has passed his order primarily on two grounds, firstly that the respondent is younger in age and secondly that respondent owns more land in the Village. Going by the orders of the District Collector, he has clearly mentioned that the petitioner Joga Singh is MA, B.Ed. retired Teacher, Red Cross Certificate awardee and his name is recommended by Naib Tehsildar, Tehsildar and SDM-cum-Assistant Collector 1st Grade, Phagwara. The Collector has seen almost all the aspects in respect of all the candidates and after evaluating the merits and demerits has passed the detailed order. Resultantly, I do not find that the order of the learned Commissioner for setting aside the order of the District Collector, Gurdaspur is based on sound reasoning. The orders of the District Collector should not be interfered unless any major irregularities are found. Undoubtedly, it has to be accepted that when the merit of a person for being appointed as Lambardar are well assessed by the Ground level Revenue Officials as they have better understanding and information at the ground level and are aware of the reputation, working and eligibility to shoulder the responsibility in a better manner. Unless there are legal irregularities or decisions are based on wrong facts or are violative of any law, interference from the higher authorities or courts are not desirable in such cases.

7. In view of these reasons, I set aside the order of the Ld. Commissioner dated 19.05.2014 and upheld the order of

District Collector dated 21.02.2011 vide which the petitioner has been appointed as Lambardar. The District Collector is further directed to take necessary action.

- x - x - ”

12.1 Considering the totality of circumstances, in my considered view the learned Commissioner had wrongly set aside the Collector’s order. Further, the learned Financial Commissioner (Appeals), Punjab has rightly set aside order dated 19.05.2014 (Annexure P-4) passed by the learned Commissioner, Jalandhar Division, Jalandhar; and upheld order dated 21.02.2011 (Annexure P-2) passed by the learned District Collector, Kapurthala; whereby respondent No.4 (Joga Singh) was appointed as Lambardar of Village Panchhat, Tehsil Phagwara, District Kapurthala.

13. There is no scope for any interference in the order dated 03.08.2016 (Annexure P-7) passed by the Financial Commissioner, resultantly the present writ petition fails and the same is dismissed.

14. All pending application(s), if any, shall also stand closed.

05.11.2024
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No