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

**CWP-10844-2018 (O&M)
Date of decision : 09.05.2024**

Gurwinder Singh**.....Petitioner**

versus

State of Punjab and others**..... Respondents**

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

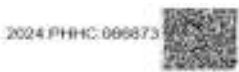
Present :- Mr. Sapan Dhir, Advocate
for the petitioner.

Mr. Rajeev K. Takkar, DAG, Punjab.

Mr. Dhiraj Jindal, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 07.09.2011 (Annexure P-1) passed by respondent No.3 whereby learned District Collector has illegally and arbitrarily appointed respondent No.4 as Lambardar of Village Kamalpur, Tehsil Sunam, District Sangrur and also for quashing the impugned order dated 08.10.2013 (Annexure P-2) passed by respondent No.2 whereby the appeal preferred by the petitioner has illegally been dismissed and the impugned order dated 24.04.2017 passed by respondent No.1-Financial Commissioner passed in ROR No.212 of 2014 whereby the revision petition filed by the petitioner has been dismissed illegally, arbitrarily and by passing a totally manifest, wrong and perverse order.



As emanated from the facts of the case, the post of Lambardar had fallen vacant in the Village on the death of earlier Lambardar namely, Joginder Singh on 02.02.2011. Thus, on conducting the proclamation, the applications were invited from the interested eligible candidates. Originally 04 persons from the village applied for the post of Lambardar however, one of the candidate namely, Charanjit Singh son of Mohinder Singh who did not have any land in the Village and thus, was discarded. Another applicant-Moti Ram, remained absent and thus, he was proceeded ex parte. Thus, only remaining two candidates i.e. Petitioner-Gurwinder Singh and respondent No.4-Jaswinder Singh (Jagwinder Singh) remained in the fray. On appreciation of their applications, their inter se merits were found as follows:-

1) Name	Jagwinder Singh	Gurwinder Singh
2) Father's Name	Sadhu Singh	Jagwinder Singh
3) Village/Tehsil/District	Kamalpur/Sunam/Sangrur	Kamalpur/Sunam/Sangrur
4) Age	52 years	36 years
5) Educational qualification	B.A.	9 th
6) Relationship with previous Nambardar	None	Son
7) Experience	None	Acting Nambardar
8) Land	5 acres	14 acres
9) Character	Punished	Punished
10) Adverse Remarks	None	None

The Subordinate Authorities recommended the name of respondent No.4-Jagwinder Singh. Learned Collector on the evaluation of their *inter se* merits found respondent No.4 to be more suitable and thus, appointed him as Lambardar of the Village vide his order dated 07.09.2011.

Being aggrieved, petitioner assailed the same by way of filing the appeal



under Section 13 of the Punjab Land Revenue Act, 1887 before learned Divisional Commissioner, Patiala. However, learned Divisional Commissioner heard both the sides and finding no infirmity in the order passed by the Collector, dismissed the same vide his order dated 08.10.2013. Still aggrieved, petitioner assailed the same by way of filing the revision petition under Section 16 of the Punjab Land Revenue Act before the Financial Commissioner. However, learned Financial Commissioner heard both the sides and appreciated the record and thus, finding no perversity in the orders passed by the Collector and the Divisional Commissioner, dismissed the same vide his order dated 24.04.2017. Hence, being aggrieved by the impugned orders passed by the learned Collector, Divisional Commissioner and the learned Financial Commissioner, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has contended that petitioner was 36 years of age and 9th class pass. Besides this he owned 14 acres of land. He has submitted that petitioner being son of the deceased Lambardar, had worked as Sarbara Lambardar as well and thus, he had experience of discharging the duties of Lambardar. It is also submitted that petitioner is younger in age and he had the hereditary claim as well, being son of the deceased Lambardar. He is permanent resident of the Village. He has submitted that respondent No.4 was elder in age and matured person. He further submits that respondent No.4 was 16 years old in age than the petitioner and as per the law settled, candidate younger in age should have been preferred. As per the law settled, the candidate younger in age should be preferred but the learned Collector ignoring the same had appointed respondent No.4 as Lambardar of the Village which is against the law settled. He has submitted that it was wrongly observed that petitioner is not a resident of the Village. He has submitted that learned Commissioner had also



failed to appreciate the perversity in the order passed by the Collector and thus, the same is unsustainable in the eyes of law. It is submitted that the revision filed by the petitioner before the learned Financial Commissioner was also illegally dismissed and thus, all the three impugned orders being perverse, deserve to be *set aside*.

Per contra, learned counsel for respondent No.4 has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that respondent No.4 was a matured person and being Graduate, was well qualified. He submits that respondent No.4 was the Head of Gurduwara Committee and remained Head of Cooperative Society Agriculture twice. He has submitted that it has been found on verification that the petitioner did not live in the Village as he was residing in Patiala and learned Financial Commissioner has also specifically observed the said fact in his order dated 24.04.2017. He submits that the hereditary claim as contended by counsel for the petitioner is already held unconstitutional. He submits that respondent No.4 was appointed by the Collector finding him more meritorious and suitable and the same was upheld by the Appellate and Revisional Authorities as well. He submits that as per law settled the Collector is the prime authority and choice of the Collector should not be interfered until and unless it suffers from perversity. He has submitted that there being no infirmity in the orders passed by the Authorities below, the petition being devoid of any merits deserves to be dismissed.

Heard. This Court has heard counsel for the parties and perused the record with their able assistance. As evident from perusal of the record, petitioner and respondent No.4 were the two candidates in the fray Respondent No.4 was elder in age than the petitioner and was much more qualified than the petitioner who was only 9th pass. His candidature was



recommended by all the Subordinate Authorities. Besides this, the petitioner was found to be residing in Patiala and thus, not being residing in the Village could not be available for discharging his duties as Lambardar. Hence, in the overall facts and circumstances of the case, respondent No.4 was found to be more suitable for the post of Lambardar. This order was upheld by both the Commissioner and learned Financial Commissioner.

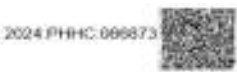
In **Sukhjinder Pal Singh Vs. State of Punjab and others, 2016(3)R.C.R.(Civil)725**, this Court while dealing with the same question has held as under:-

14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.

However, as per the judgment titled as **Parkash Chand Vs. State of Haryana** passed in **CWP No.17185 of 2011** decided on **30.01.2013**, hereditary claim has been held to be unconstitutional. This Court in **Parkash Chand's case (supra)** held as under:

*“So far as the hereditary claim is concerned, the issue is no more res integra. It was held by a Division bench of this Court in **Karnail Singh vs. State of Haryana**, 1974 PLR 67 that Rule 17(ii) being violative of the fundamental rights guaranteed by Articles 14, 15 and 16 of the Constitution of India, the provision providing for the hereditary claim was ultra vires and unconstitutional.”*

Thus, the argument regarding hereditary claim raised by counsel for the petitioner is without any force and is rejected. This Court



finds that all the authorities have taken a concurrent view in the appointment of respondent No.4. Thus, weighing the facts and circumstances of the case, on the anvil of the law settled, this Court does not find any infirmity or perversity in the impugned orders and thus, the petition being devoid of any merits is hereby dismissed.

09.05.2024

m. sharma

(RAJESH BHARDWAJ)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No