

107

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

CWP-10933-2018

Reserved on: 09.04.2024

Date of decision :30.04.2024

Sarbjit Singh**.....Petitioner****versus**

**Additional Chief Secretary-cum-Financial Commissioner Appeals
Punjab**

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

Present :- Mr. C.S. Bagri, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

Mr. Raghav Bali, Advocate for
Mr. Pankaj Bali, Advocate
for respondent No.4.

*********RAJESH BHARDWAJ, J.**

Prayer in the present petition is for quashing the impugned order dated 28.07.2015 (Annexure P-1) of File No.37/Nambardari passed by the Deputy Commissioner and order dated 22.11.2016 (Annexure P-2) passed by the Divisional Commissioner, Patiala in case RA 1/2016 and order dated 15.09.2017 (Annexure P-3) passed by the Financial Commissioner (Appeals) Punjab in ROR No.144 of 2017 being void, arbitrary, illegal, without consideration of judicial precedent and provisions of law. Further prayer has been made for directing the respondents to appoint petitioner as Nambardar of the Village Saidpura, Tehsil Khamano, District Fatehgarh Sahib.

The present case deals with the appointment of Scheduled Caste) Lambardar. On the death of earlier Lambardar namely, Harchand Singh, resident of Village Saidpura, Tehsil Khamano, District Fatehgarh Sahib on 21.09.2014, the post of Lambardar fell vacant in the Village and thus, the process for the appointment of new Lambardar was initiated. The *mustri munadi*/proclamation was made in the village for inviting the applications from the interested eligible candidates. In pursuance to the same, in all 14 applications were received. However, finally 06 applicants remained in the fray as rest of the candidates withdrew their applications in favour of the other candidates. Their character verifications were conducted through the concerned police station. On appreciation of the applications filed, petitioner was found to be 40 years of age and M.A. pass by qualification. Besides this, he was grandson of the deceased Lambardar, Hazoor Singh. He claimed the hereditary claim as he was the son of deceased Lambardar. On the other hand, respondent No.4 was also found to be 40 years of age and MA. B.Ed. pass and was Bachelor in Library Science as well. On comparison of their *inter se* merits, the Assistant Collector recommended the name of respondent No.4 for the appointment as Lambardar. Learned Collector on evaluation of the *inter se* merits of the candidates in the fray, found respondent No.4 to be the most meritorious and suitable candidate for the said post and thus, was appointed him as Lambardar of the Village vide order dated 28.07.2015. Aggrieved, the co-applicant Jaspinder Singh and petitioner assailed the said order by way of filing their independent appeals before the learned Divisional Commissioner. Both the appeals were heard and decided together by the learned Divisional Commissioner. On hearing all the concerned parties, learned Divisional Commissioner found no merit in

both the appeals and thus, dismissed the same vide impugned order dated 22.11.2016. Still aggrieved, co-applicant Jaspinder Singh and petitioner assailed the order passed by the learned Divisional Commissioner by way of filing two independent revision petitions i.e. ROR No.143 of 2017 and ROR No.144 of 2017 before the learned Financial Commissioner. All the concerned parties were heard and their evidence on record were re-appreciated. However, finding no merit in the same, learned Financial Commissioner dismissed both the revision petitions vide impugned order dated 15.09.2017. Thus, being aggrieved, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that as evident from the comparison of the *inter se* merits, petitioner was the most meritorious and suitable candidate and thus, he should be appointed as Lambardar. He has submitted that there was no difference in age and qualification of both the petitioner and respondent No.4. However, petitioner has the hereditary claim as his father and grandfather both remained Lambardar of the Village and thus, he had the experience of working as Lambardar. He has submitted that the hereditary claim of the petitioner has not been taken into consideration by the Collector and the Appellate/Revisional Authorities and thus, the impugned order being perverse deserves to be *set aside* by appointing the petitioner as Lambardar of the Village.

Learned counsel for respondent No.4 has vehemently opposed the submissions made by counsel for the petitioner. He has placed on record written arguments on behalf of respondent No.4. He has submitted that on finding respondent No.4 to be most meritorious and suitable, his candidature was recommended by the Assistant Collector for

the appointment of Lambardar. He has submitted that learned Collector on evaluation of the *inter se* merits of all the candidates accepted the recommendation of the Assistant Collector and thus, finding respondent No.4 to be more meritorious, he was duly appointed as Lambardar of the Village. He submits that this appointment made by the Collector was duly upheld by the Appellate Authority and Revisional Authority. As per the judgment titled as **Karam Singh Vs. Financial Commissioner and others, 2006(7) RCR(Civil) 8**, the order of the Collector cannot be interfered unless the same suffers from material perversity and there being no perversity in the orders passed by the Collector, the same was rightly upheld by the Appellate and Revisional Authorities as well. He has submitted that there being no merit in the petition, the same deserves to be dismissed.

Learned counsel for the parties were duly heard and with their able assistance record was perused. On comparison of the *inter se* merits of both the candidates, it is evident that both are of the same age and are postgraduate by qualification. However, respondent No.4 has additional qualification of B.Ed and Bachelor in Library Science as well. Learned counsel for the petitioner has contended that the petitioner being son of the deceased Lambardar has hereditary claim to the post as well. 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, this argument raised by counsel for the petitioner is without any force and is rejected. In the case in hand, the view taken by the learned Collector has been upheld by the Appellate as well as the Revisional Authorities. Thus, all the three authorities have taken a concurrent view in favour of respondent No.4. It is also the settled law that the appointment of the Lambardar is prerogative of the Collector and even if there are two views possible, then the view taken by the Collector should not be discarded.

As per the settled law, Collector is the prime authority for deciding the most suitable candidate for the post of Lambardar and his order cannot be interfered unless the same suffers from material perversity. The law settled in ***Karam Singh's case (supra)*** is fully applicable to the case in hand.

All the three subordinates authorities have taken a consistent view and thus, the order passed by the Collector is found to be suffering from no perversity. This Court in ***Hakam Singh Vs. Financial Commissioner (Revenue), Punjab and others, 2016(4) RCR (Civil) 335*** while dealing with the same question has held as under:-

3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.

The same view was taken by the Hon'ble Division Bench of this Court in *Ravinder Singh Vs. Financial Commissioner (Revenue), Punjab Chandigarh and others, 2012(68) RCR (Civil) 288.*

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.

This Court finds that all the authorities have taken the concurrent view in appointment of respondent No.4. Thus, this Court finds no perversity in the order passed by the Collector which has been upheld by the Appellate and Revisional Court and hence, finding no merit in the petition the same is hereby dismissed.

30.04.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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