

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

CWP-18975-2016

Date of Decision: 14.02.2024

Gurmit Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Talwinder Singh, Advocate, for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

Mr. R.M.Sharma, Advocate, for respondent No.2.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the order dated 20.05.2016 (Annexure P-1) passed by the learned Financial Commissioner, Punjab-respondent No.1, whereby appointment of the petitioner as Lambardar of Patti Sher, Village Buian Wala has been set aside and respondent No.2 has been appointed as Lambardar in an illegal and arbitrary manner without following the settle principles of law.

Adumbrated facts of the case are that on account of death of Pritam Singh, earlier Lambardar of the village Buian Wala (Patti Sher Gill), Tehsil Zira, District Ferozepur on 26.09.2007, post of Lambardar fell vacant and thus, 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, four applications were received, however, one candidate withdrew his application and thus, three candidates including the petitioner and respondent No.2 remained in fray. Their character verifications were got conducted from the concerned Police Station. On receiving the record, two

candidates, namely, Pipal Singh & Lakhvir Singh appeared before the District Collector, however, finding both the candidates unfit, fresh proclamation was conducted in the village for inviting applications afresh. Thereafter, in pursuance to the same, five applications were received from the candidates, namely, Gurmit Singh (petitioner), Lakhvir Singh, Mastan Singh (respondent No.2), Pipal Singh and Bakhshish Singh. Out of these candidates, two candidates, namely, Lakhvir Singh and Bakhshish Singh remained absent and thus, only three candidates remained in fray. On appreciation of their merits, it was found as under:-

Name	Age	Education	Land holding	Remarks
Gurmit Singh	60 years	Illiterate	22 Kanals 1 Marla	Naib Tehsildar and SDM, Zira recommended his name
Mastan Singh	64 years (as per FC order)	BA pass	3 Kanals 17 Marlas	Retired as Subedar Major from Indian Army and was elected as Sarpanch of the village twice
Pipal Singh	40 years	8 th pass	6 Kanals 11 Marlas	--

Learned Collector, Ferozepur on evaluation of inter-se merits and demerits of all the candidates, finding the petitioner (Gurmit Singh) to be more meritorious candidate appointed him as Lambardar of the village vide order dated 03.10.2011 (Annexure P-3). Aggrieved by the same, individual appeals were filed by Lakhvir Singh, Pipal Singh and Mastan Singh before the Commissioner, Ferozepur Division, Ferozepur. Learned Divisional Commissioner after hearing all the sides found no perversity in the order passed by the Collector and thus, dismissed the appeals vide order dated 01.11.2012 (Annexure P-4) on the ground that Lakhvir Singh and Pipal Singh were earlier declared unfit by the learned Collector. Aggrieved by the same, Mastan Singh and Pipal Singh filed their individual revision petitions under Section 16 of the Punjab Land Revenue Act, 1887 before the

learned Financial Commissioner, Punjab who heard both the sides and re-appreciated the record. The Financial Commissioner allowed the revision petition filed by Mastan Singh by appointing him as Lambardar vide order dated 20.05.2016 (Annexure P-1) and set aside the orders passed by the learned Collector and the Commissioner. Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has contented that the petitioner was the most meritorious and thus, the learned Collector appointed him as Lambardar of the village, which was further upheld by the learned Commissioner. It is submitted that however, the learned Financial Commissioner has illegally set aside the well reasoned orders passed by the learned Collector and the Commissioner. He submits that though the petitioner was convicted by learned Additional Sessions Judge, Ferozepur vide order dated 04.08.1988 and sentenced for life imprisonment, however, in the appeal filed before this Court, he was acquitted vide order dated 19.04.1993. He has submitted that at the time of his appointment, the petitioner was not a convict and thus, he was rightly appointed by the Collector as Lambardar of the village. He submits that the order passed by the Collector cannot be interfered with unless it suffers from patent illegality, thus, there being no illegality in the order passed by the Collector, the view taken by the Financial Commissioner is totally unsustainable in the eyes of law and deserves to be set aside.

Per contra, learned counsel for respondent No.2 has vehemently opposed the submissions made by learned counsel for the petitioner and has submitted that the petitioner was convicted for the offence under Section 302 IPC and he was awarded life sentence by the learned Additional Sessions Judge, Ferozepur. He submits that though he was acquitted,

however, stigma still remains on him. He has further submitted that this fact of the petitioner having faced criminal prosecution was concealed and thus, was never appreciated by the learned Collector at the time of consideration of his candidature for the appointment of Lambardar. He has further submitted that the order passed by the learned Collector is perverse, which was illegally upheld by the learned Commissioner and thereafter, was rightly set aside by learned Financial Commissioner by appointing respondent No.2 as Lambardar of the village. He has relied upon the judgments of this Court in Kabul Singh vs. The Financial Commissioner, Punjab, 2006(3) RCR (Civil) 313 and Smt. Angrez Kaur vs. Financial Commissioner, Animal Husbandry, Punjab and others, 2011(53) RCR (Civil) 935.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner was appointed as Lambardar of the village. There is no denial to fact that the petitioner had faced criminal prosecution for the offence under Section 302 IPC and he was convicted and sentenced for life imprisonment. However, in the appeal filed before this Court, he was acquitted vide order dated 19.04.1993. However, from the perusal of the record, it is evident that this fact was never brought to the notice of the learned Collector and thus, the order passed is totally silent on this aspect. Hence, in the considered opinion of this Court, the order passed by the Collector is found perverse, though learned Financial Commissioner has set aside the same, however, the case should have been remanded to the Collector for decision afresh, whereas, the learned Financial Commissioner has appointed respondent No.2 as per his choice, which is unwarranted.

The judgments relied upon by respondent No.2 are relevant to

the facts and circumstances of the present case. There is no quarrel with the proposition of law held in Smt. Angrez Kaur's case (supra), wherein, it is held that the authorities are required to consider not only the comparative merits of the candidates but their demerits also and suitability of the candidates is to be considered and judged in context of duties to be performed by him. Similarly, in Kabul Singh's case (supra), it has been held that merely acquittal in a criminal case does not amount that the candidate has a clean record.

Thus, the order dated 20.05.2016 passed by learned Financial Commissioner is set aside and the case is remanded to learned Collector for decision afresh after hearing all the parties and considering the merits and demerits of all the candidates. Learned Collector would pass a fresh order expeditiously preferably within three months from the date of receipt of copy of this order.

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. Till the matter is decided finally by the Collector, respondent No.2 will continue to work as Lambardar of village.

Present petition stands disposed of in above terms.

14.02.2024
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No

(RAJESH BHARDWAJ)
JUDGE