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Inderjit Singh

versus

Financial Commissioner and others

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Joginder Singh

versus

Financial Commissioner and others

Date of decision : 30.01.2024

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :-

Mr. Lovish Arora, Advocate

Mr. Navneet Singh, Senior DAG, Punjab.

Mr. Rakesh Sobti, Advocate

Mr. Rahul Arora, Advocate

RAJESH BHARDWAJ, J.

By this common order I intend to disposed of abovesaid two

This petition has been filed praying for quashing the orders

dated 21.12.2011, 01.11.2012 and 30.01.2018 (Annexures P-1, P-3 and P-

for his appointment as Lambardar of Village Tibbi Khurd, Tehsil &

District Ferozepur has been rejected and further appeal and revision filed by him have been dismissed. Further prayer has been made for staying the operation and implementation of the impugned orders dated 21.12.2011, 01.11.2012 and 30.01.2018 (Annexures P-1, P-3 and P-6).

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Assa Singh on 23.10.2009, the post of Lambardar fell vacant in the Village and thus, process for the appointment of new Lambardar was initiated. The *mustri munadi* was got conducted to invite the applications from the eligible interested candidates. In pursuance to the same, ten applications were received including the petitioner and respondents No.4 to 6. Their character verification was conducted from the police. On appreciation of their *inter se* merits, the Naib Tehsildar, Mamdot recommended the name of Joginder Singh i.e. respondent No.5 to be appointed as Lambardar whereas, the Sub Divisional Magistrate after hearing the candidates recommended the name of Kanwarpal Singh i.e. respondent No.4 to the Collector for his appointment as Lambardar. On appreciation of the *inter se* merits of all the candidates, Inderjit Singh (petitioner) was found to be 37 years of age. He had passed 12th class and was holding ITI Diploma as well. Kanwar Pal Singh (respondent No.4) was found to be 36 years of age and 8th class pass. Besides this, he owned 9 acres of land. Joginder Singh (respondent No.5) was found to be 37 years of age. Besides this, he owned 10 acres of land in the Village and also owned 15 acres of land in another village. The Collector on evaluation of the *inter se* merits of all the candidates, found Kanwarpal Singh i.e. respondent No.4 to be the most suitable candidate and thus, appointed him as Lambardar of the Village vide his order dated 21.12.2011. Being aggrieved, respondents No.5, 6, the petitioner and other unsuccessful

candidates filed their respective four appeals before the Commissioner, Ferozepur. Learned Commissioner, on hearing all the sides and re-appreciating the record, found no merit in the appeals and thus, dismissed all the appeals vide order dated 01.11.2012 and thus, upheld the order passed by the Collector. Being aggrieved, petitioner, respondent No.5 and other co-applicants filed three RORs bearing No.ROR-209/13, ROR-256/13 and ROR-330/13 before the Financial Commissioner, Punjab. Learned Commissioner reheard all the parties and on re-appreciating the evidence on record, found no merit in the revision petitions and thus, dismissed all the revision petitions vide his order dated 30.01.2018 and thus, the order passed by the Collector has been upheld by the Financial Commissioner.

It has been contended by counsel for the petitioner-Inderjit Singh that on perusal of the *inter se* merits of all the candidates, he was found to be the most suitable and meritorious candidates, however, learned Collector has failed to appreciate the same. He has submitted that the petitioner has been non-suited on the ground that he was President of the Cooperative Society, President of Youth Club and was Member of the Gram Panchayat and as he was holding many posts thus, he could not be available to perform his duties of Lambardar. He submits that the post of Lambardar fell vacant on the death of earlier Lambardar Assa Singh on 23.10.2009 whereas, the petitioner on that day was Ex-President of the Cooperative Society and the Ex-member of the Gram Panchayat. Thus, neither he was President of the Cooperative Society nor member of the Gram Panchayat on the day of the appointment of the Lambardar in the Village. It is submitted that the petitioner remained member of the Gram Panchayat upto August, 2009 and member of the Cooperative Society upto

September, 2009. Thus, the findings of learned Collector that petitioner was holding these posts at the time of appointment of Lambardar is factually incorrect. He submits that the petitioner was 37 years of age. He further submits that petitioner was younger in age and more qualified than respondent No.4 but the same has not been appreciated by the learned Collector. He submits that order of the Collector being perverse, deserves to be *set aside*. However, the Appellate and Revisional Authorities also failed to appreciate the same and thus, the order passed by the Collector and that by the Appellate and Revisional Authorities deserve to be *set aside*.

Learned counsel for Joginder Singh (petitioner in CWP-1952-2024 and respondent No.5 in CWP-14767-2018) has stated that the claim of the petitioner has been rejected mainly on the ground that two members of his family are already Lambardar whereas, brothers of the petitioner are not Lambardar of the same village. Moreover, all of them have separate residence and mess. Thus, this could not be the parameter for disqualification of the petitioner and did not disentitle him to be the Lambardar of the Village. Learned counsel has further stated that petitioner was 37 years of age and owned 10 acres of land in Village Tibbi Khurd and also owned 15 acres of land in another village which is more than the land of any other candidates. He has further stated that name of the petitioner was recommended by Naib Tehsildar, Mamdot as well as Tehsildar, Ferozepur for his appointment as Lambardar of Village Tibbi Khurd but the learned Collector has miserably failed to appreciate the fact that the petitioner was better candidate for his appointment as Lambardar. He further submits that the Appellate and Revisional Authorities also failed to appreciate the evidences in right spirit and thus, the order passed by the

Revenue Authorities are liable to be *set aside*.

Per contra, learned counsel for respondent No.4 has submitted that learned Collector has rightly appreciated the *inter se* merits of all the candidates including petitioner and that of the respondents and thus, finding respondent No.4 to be more meritorious, he was rightly appointed as Lambardar. He submits that the order of the Collector has been upheld by the Appellate as well as Revisional Authority as there was no perversity found in the same. He has relied upon the judgments titled as Harbachan Lal Vs. Financial Commissioner Appeals Punjab and others passed in CWP-26171-2016 decided on 02.09.2023 and Jog Dhian Vs. Financial Commissioner, Haryana and others, 2005(1) RCR (Civil) 658. He submits that as there is no perversity in the orders passed by the Authorities below, the present petition deserves to be dismissed.

Learned counsel for respondent No.6 has also assailed the choice of Collector in appointing respondent No.4 as Lambardar of the Village and has stated that his candidature has not been considered by the Revenue Authorities. He has further stated that he was having hereditary claim as previously his father Assa Singh was Lambardar of the Village and during the lifetime of his father, he was assisting him in the work of Lambardar as he was residing with his father. He further submits that his merits has not been discussed in the impugned order dated 30.01.2018. He has submitted that respondent No.6 was more meritorious than all other candidates and was required to be appointed as Lambardar of the Village and by not doing so, the Revenue Authorities have fallen in error in passing the impugned orders by declining the merits of respondent No.6 and hence the impugned orders being perverse deserve to be *set aside*.

Heard. On hearing counsel for the parties and perusing the

record, it is apparent that the process for the appointment of new Lambardar in Village was initiated on the death of the earlier Lambardar. The applications were received from the petitioner, respondents and other candidates. Learned Collector on appreciation of the reports and character antecedents, found respondent No.4 to be the most suitable candidate and thus, appointed him as Lambardar of the Village. Learned Collector found Joginder Singh (petitioner in CWP-1952-2024) less educated than other candidates. It was also found that his two brothers were already Lambardars of other villages and therefore it was not deemed appropriate to appoint him as Lambardar. Similarly, candidate Inderjit Singh (petitioner in CWP-14767-2018) was found to be President of Cooperative Society, Tibbi Khurd and also President of Village Youth Club. As, he was found to be holding a number of posts, therefore, he was also not found suitable candidate for his appointment as Lambardar. A complaint under Sections 326, 324, 323, 148 and 149 was found to be pending against Iqbal Singh wherein, he was summoned by the Court and ultimately, Collector appointed respondent No.4 as Lambardar of the Village Tibbi Khurd. The main argument raised by counsel for the petitioner-Inderjit Singh is that petitioner was rejected by the Collector on the ground that he was holding other posts of responsibility and thus, he could not be available to discharge his duties as Lambardar. However at the relevant time of appointment, petitioner denied of holding any of these posts and thus, he contended to be more meritorious for his appointment as Lambardar but the Collector failed to appreciate the same. Similarly, the main argument of petitioner-Joginder Singh is that his claim was rejected because two members of his family were already Lambardar and the Collector has not appreciated the fact that the brothers of petitioner were not Lambardar of

the same Village and all brothers were living separate from each other.

There is no dispute regarding the judgments relied upon by learned counsel for respondent No.4, however, on the facts and circumstances of the case, the same are distinguishable.

There is no gainsaying that the Collector is a prime authority for appointment of Lambardar. However, in the facts and circumstances of the case, it is apparent that the merits of each candidate has not been appreciated by the Collector and similarly the effect of two persons of a family being already appointed as Lambardar and non-availability of Inderjit Singh due to holding of alleged other posts have not been appreciated by the learned Collector especially when it is contended that at the time of his appointment, he was not holding those posts. Thus, the evidences of the parties deserve to be re-appreciated and the order passed by the Collector being perverse, the case needs to be decided afresh. Consequently, the orders dated 21.12.2011, 01.11.2012 and 30.01.2018 are *set aside*. The case is remanded to the Collector for decision afresh, who would decide the same expeditiously, preferably, within three months from the date of receipt of copy of this order after hearing all the parties. Office is directed to send copy of this order to the Collector concerned forthwith who on receipt of the same will issue notice for appearance to all the parties and proceed with the matter.

Both the petitions are disposed of in above-terms.

30.01.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No