



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15210-2023 (O&M)
Date of decision :23.07.2024

MURTI DEVI ...Petitioners

Versus

STATE OF HARYANA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Surjit Singh, Advocate
for Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

Mr. Parveen Moudgil, Advocate
for respondent No.4.

HARSH BUNGER, J. [ORAL]

1. Prayer in the present petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the impugned order dated 04.12.2017 (Annexure P-1) passed by the learned Collector, Jind; whereby, respondent No.4 (Azad Singh) was appointed as the *Lambardar* of Village Sudakan Khurd, Tehsil Narwana, District Jind.

A further prayer has been made in the writ petition for setting aside the order dated 24.01.2023 (Annexure P-3) passed by the learned Financial Commissioner, Haryana; whereby, an order dated 30.03.2018 (Annexure P-2) passed by the learned Commissioner, Hisar; has been set aside and the order dated 04.12.2017 (Annexure P-1) passed by learned Collector, Jind has been upheld.

2. Briefly, upon demise of Sh. Tara Chand, the previous *Lambardar* (General category) of Village Sudakan Khurd, Tehsil Narwana, District Jind, proceedings were initiated for filling up the vacancy by issuance of proclamation. In pursuance to the proclamation, nine applications (including the one submitted by the petitioner and another by respondent No.4) were received; out of which, six candidates withdrew their candidature in favour of respondent No.4. Another candidate (Ravish) did not appear and ultimately, only two candidates remained in the fray i.e. the petitioner and respondent No.4, herein.

2.1 The learned Assistant Collector 2nd Grade, Narwana, recommended the name of the petitioner for appointment to the post of *Lambardar*, whereas, the Assistant Collector 1st Grade, Narwana, recommended the name of respondent No.4 for appointment to the above-said vacant post of *Lambardar*.

3. Upon considering the merits and de-merits of the candidates, the learned Collector, Jind, vide his order dated 04.12.2017 (Annexure P-1) appointed respondent No.4 as the *Lambardar* of Village Sudakan Khurd, Tehsil Narwana, District Jind.

4. Feeling aggrieved against the afore-said order (Annexure P-1), the petitioner preferred an appeal before the learned Commissioner, Hisar, which came to be allowed vide order dated 30.03.2018 (Annexure P-2) and the matter was remanded to the learned Collector, for fresh decision.

5. The respondent No.4 challenged the afore-said order dated 30.03.2018 (Annexure P-2) by filing a revision petition (ROR No.403 of 2017-18) before the learned Financial Commissioner, Haryana; which came to be allowed vide order dated 24.01.2023 (Annexure P-3); whereby, the order (Annexure P-2) passed by the learned Commissioner, was set aside

and the order (Annexure P-1) passed by learned Collector, appointing respondent No.4 as *Lambardar* of Village Sudakan Khurd, was upheld.

6. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court, for the relief as noticed above.

7. Learned counsel for the petitioner submits that the learned Collector as well as the learned Financial Commissioner, have erred in law and fact in appointing respondent No.4 as *Lambardar* of Village Sudakan Khurd, by ignoring the better merits of the petitioner. It is submitted that although, the petitioner and respondent No.4 are about the same age and even the educational qualification of both is also the same; however, the petitioner is a lady and has influence and good relations with the villagers. It is further submitted that although, the name of the petitioner was recommended by the learned Assistant Collector 2nd Grade, however, the learned Collector, has wrongly stated that the learned Assistant Collector 2nd Grade, had recommended the name of respondent No.4. It is also stated that there is a discrepancy as regards the age of respondent No.4 is concerned, inasmuch as that in the Aadhar Card, the date of birth of respondent No.4 is 08.08.1989, whereas, according to the Ration Card, he is stated to be of 38 years. It is also submitted that the donation receipts have been wrongly considered in the matter of appointment of *Lambardar*. It is, therefore, submitted that the petitioner had an edge over the respondent No.4 being daughter-in-law of deceased *Lambardar* and was required to be appointed as the *Lambardar*. It is next submitted that although the petitioner had appeared in the Revision petition filed by respondent No.4 before the learned Financial Commissioner, Haryana; however, since the Presiding Officer/Financial Commissioner, had

changed, no notice was sent to the petitioner and the revision petition was decided without hearing the petitioner.

8. With the afore-said submissions, learned counsel for the petitioner has submitted that the impugned order/s be set aside.

9. Per contra, learned counsel appearing for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. It is submitted that the learned Collector, had duly considered the relative merits and de-merits of the candidates and had rightly appointed respondent No.4 as *Lambardar* of Village Sudakan Khurd. It is further submitted that the learned Commissioner had wrongly accepted the appeal filed by the petitioner on wholly irrelevant considerations and had remanded the matter; however, the learned Financial Commissioner, has considered all the grounds indicated by the learned Commissioner while remanding the case and has rightly set aside the order passed by the learned Commissioner and restored the order passed by the learned Collector, appointing respondent No.4 as *Lambardar*. It is also stated that respondent No.4 is more meritorious than the petitioner. It is stated that although the petitioner and respondent No.4 are more or less of the same age; however, respondent No.4 is more educated than the petitioner as he has studied upto B.A. Part II and petitioner is 10+2. It is next stated that the respondent No.4 has more land holding/s than the petitioner. It is further contended that even otherwise, it is well settled law that choice of Collector, in the matter of appointment of *Lambardar*, is not to be lightly interfered with unless there is any illegality or perversity therein. Accordingly, it is submitted that the writ petition is bereft of any merit and prayer for dismissal of the same has been made.

10. I have heard learned counsel for the parties and perused the

paper-book with their able assistance.

11. In the instant case, it is not disputed by learned counsel for the parties that the candidature of respondent No.4 was recommended by learned Assistant Collector 1st Grade, Narwana whereas the candidature of the petitioner was recommended by learned Assistant Collector 2nd Grade, Narwana and the matter was, thereafter, sent to learned Collector, Jind, who vide his order dated 04.12.2017 (Annexure P-1) appointed respondent No.4 as *Lambardar* by considering the following factors :

- (i) *young age ;*
- (ii) *more land holdings ;*
- (iii) *recommendation by Assistant Collector; and*
- (iv) *knowledge of village revenue.*

12. The learned Commissioner, Hisar Division, Hisar set aside the Collector's order by observing as under :-

“5. After hearing both sides and perusing the record, it is found that there is very large variation of age of respondent no.1. It cannot be understood that a person could have age of 27 years in one document and age of 38 years in another document. It requires a detailed enquiry as to what is the correct age of respondent no.1. Further, it is also found that Collector has wrongly mentioned that respondent was recommended by Assistant Collector 2nd grade. In fact, the order of Assistant Collector 2nd grade dated 13.07.2017 clearly mentioned that appellant Smt. Murti Devi was recommended. So, reconsideration is required because such facts might have influenced the final decision in the present case.

6. It is also observed that in the comparative table, there were 2 columns regarding relationship with the deceased Lambardar. In one row, Smt. Murti Devi was written as not related and Azad Singh was written

as grand children of deceased Lambardar. However, in the next row over the same relationship, Smt. Murti Devi is written as daughter-in-law and Azad Singh is written as unrelated. So, these two rows are contradictory to each other and there is a mistake also in one of the upper row which might have influenced the final decision.

7. *Moreover, the fake donation receipt is also alleged against the respondent no.1, which also needs a fact finding enquiry. On the other hand, the appellant is also accused of having in unauthorized possession and her father-in-law is accused of being defaulter of electricity bill, which was cleared after start of Lambardari proceeding.*

8. *In the light of above said discussion, a relook is required into considering the correct facts regarding merits and demerits of both the candidates. Further, a fact finding enquiry is also required into allegations and counter allegations against both candidates mentioned above. Candidates shall be provided reasonable opportunity of hearing. Only thereafter the best candidate can be selected. Parties are directed to appear before Collector on 25.06.2018. The file may be consigned to record room. Lower court's record is returned."*

13. However, the learned Financial Commissioner, Haryana vide order dated 24.01.2023 (Annexure P-3), set aside the order passed by the learned Commissioner, Hisar and restored the order passed by the learned Collector, appointing respondent No.4 as *Lambardar*.

14. Considering the afore-mentioned facts and circumstances, the learned counsel for the respective parties have submitted that the case may be decided by this Court, considering the relative merits and de-merits of the petitioner and respondent No.4, herein.

15. For the appointment of the Village Headman, Rules 15 and 17 of the Haryana Land Revenue Rules ('Rules' - for short) provide for matters to be considered in first appointment and successors. Rules 15 and 17 of the Rules, read as under :-

"15. Matters to be considered in first appointments. - In all first appointments of headman, regard shall be had among other matters to -

(a) his experience as substitute/sarbarah lambardar;

(b) extent of property in the estate possessed by the candidate.

(c) services rendered to the State by himself or by his family;

(d) his personal influence, character, ability and freedom from indebtedness;

(e) the strength and importance of the community from which selection of a headman is to be made;

(f) services rendered by himself or by his family in the national movements to secure freedom of India;

[In case of an ex-headman of an estate or Sub-division thereof in the territory now comprising the State of [Haryana] who had resigned or was dismissed on account of his participation in a national movement before partition and another headman was appointed in his place, the present incumbent of the post shall be removed irrespective of the provisions of rule 16 and the ex-headman would be appointed in his place if he has not rendered himself unfit for appointment for any of the reasons given in rule 16 except imprisonment for a political offence before 15th August, 1947. In case the ex-headman is no longer alive, a person of his family who would under the rules have been entitled to be headmen if the resignation or dismissal had not intervened, would be appointed as headman. But when

no such person exist there would be no need to remove the existing Lambardar.]

(g) services rendered by himself to the community and development programmes;

(h) he shall be not less than 21 years of age at the time of inviting the application for the appointment of Lambardar;

(i) he should be literate, preferably middle pass.”

(17) Matters to be considered in appointment of successors.—*(i) In an estate, or sub-division thereof, owned chiefly, or altogether by Government a successor to the office of headman shall be selected with due regard to all the considerations, [-----] stated in Rule 15.*

(ii) In other estates for the appointment of successor to headman, regard shall be had to the matters contained in rule 15 ; and...”

16. Coming to the case in hand, as regards the allegations and counter allegations made by the parties against each other are concerned; the learned Financial Commissioner has dealt with the observations made in the Commissioner’s order, by holding as under :-

“2. There were three grounds on which the matter was remanded to the Collector for a fresh decision by the Ld. Commissioner:-

(i) Variation in age of the petitioner

The date of birth of the Petitioner-Azad Singh is recorded as 08.08.1989 in the Aadhar Card No.XXXX XXX 7282. His year of birth is recorded as 1988 in Election Commission of India’s Voter Identity Card No.IPK0044107. In the Driving Licence issued on 18.09.2014, his date of birth is recorded as 08.08.1989. The matriculation certificate of the Board of School Education Haryana (Haryana Open School) records his date of birth as 08.08.1989.

Mere recording of incorrect age in the ration card does not mean that the Collector had incorrectly considered the age of the petitioner-Azad Singh while appointing him as Lambardar. The Commissioner's contention that there was wide variation in the age of the petitioner is not correct. The petitioner was 28 years old at the time of his appointment by the Collector in the year 2017.

(ii) Relationship with the deceased Lambardar

It is stated by the Ld. Counsel that the petitioner is not related to the deceased Lambardar. Further, there can be no consideration on the basis of hereditary claims. Relationship with the deceased Lambardar is not a ground for consideration of appointment to the post of Lambardar and is irrelevant to the appointment.

(iii) Fake donation receipts

The Ld. Counsel has produced donation receipts as follows :-

- i) Shri Nav Durga Mandir, Durga Colony, Jind (Haryana) ated 15.05.2012*
- ii) Prachin Shiv Mandir Khatvangeswar Mahadev, Khadalva, Mataur, Kaithal, Haryana dated 12.11.2016.*
- iii) Four receipts of Shiv Shakti Gaushala, Khadalva, Mataur, Kaithal, Haryana dated 12.05.2017, 01.10.2016, 06.05.2017, 09.05.2017.*

3. In view of the above, I find the impugned order of the Ld. Commissioner remanding the case to the Collector is not sound. It is a case of splitting hairs. The impugned order of the Commissioner is thus set aside and the order of the Collector appointing the petitioner as Lambardar of Village Sudkain Khurd is hereby restored.

Revision petition allowed."

17. Learned counsel for the petitioner could not dispute the observations made by the learned Financial Commissioner, in his order dated 24.01.2023 (Annexure P-3); especially, as regards the age of respondent No.4 (Azad Singh); wherein, it was stated that the matriculation certificate of the Board of School Education, Haryana (Haryana Open School) records the date of birth of respondent No.4 as 08.08.1989. Accordingly, the merits and de-merits of the candidates can be summed up as under :-

S. No.	Particulars	Petitioner	Resp. No.4
1.	Age <i>(as per order dated 04.12.2017 passed by Id. District Collector, Jind)</i>	29 years	27 years
2.	Educational qualification	10+2	B.A. Part II
3.	Land holding/s	1 Kanal–12 Marla	57 Kanals-10 Marla
4.	Recommended by	Assistant Collector 2nd Grade	Assistant Collector 1st Grade

A bare perusal of the above chart would show that as far as the age of the candidates is concerned, there is not much difference but respondent No.4 is more educated than the petitioner and respondent No.4 holds more land than the petitioner. Learned Collector, Jind has appointed respondent No.4 (Azad Singh) as *Lambardar* of Village Sudakan Khurd, Tehsil Narwana, District Jind.

18. In the case of ***Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273***; it was held by the Division Bench of this Court that choice of the District Collector cannot be lightly set aside, even if, two views are possible, unless there is patent illegality or perversity therein.

19. As regards the plea of the petitioner that she being daughter-in-law of deceased *Lambardar*; therefore she should be appointed

as the *Lambardar*; it is observed that if such a plea is accepted by giving preference to a candidate, who is related to the deceased *Lambardar*, it would, in essence, amount to giving preference to a hereditary claim, when, otherwise, the provision in respect of hereditary claim offends Article 14 of the Constitution of India, as has been held by a Division Bench of this Court in '*Karnail Singh v. The State of Haryana etc.*', 1973 PLJ 676'.

20. Considering the totality of circumstances, there is no scope for any interference in the choice of learned Collector, Jind, who has appointed respondent No.4 as *Lambardar*. The choice of the Collector has further been upheld by the learned Financial Commissioner, Haryana.

21. No other point has been urged.

22. In view of the above discussion, I do not find any merit in the instant writ petition and the same is accordingly dismissed.

23. All pending applications (if any) shall also stand closed.

July 23, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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