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

CWP No.24260 of 2016

Date of Decision: 07.02.2024

Ram Kumar

..... Petitioner

Versus

**The Financial Commissioner, Department of Revenue,
Haryana and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Aneesh Chopra, Advocate for
Mr. Shekhar Verma, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. Ravinder Malik, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the order dated 17.05.2011 passed by the learned Collector, Kurukshetra (Annexure P-1) whereby respondent No.4 was chosen to be appointed as lambardar on newly sanctioned post of Backward Class lambardar in village Lathi Dhanora, Sub Tehsil Ladwa, District Kurukshetra and further the order dated 14.01.2014 passed by the learned Commissioner, Ambala Division, Ambala (Annexure P-3) and order dated 27.08.2015 passed by the learned Financial Commissioner, Haryana (Annexure P-5)

whereby even the appeal and revision of the petitioner against the same were also chosen to be summarily dismissed.

Adumbrated facts of the case are that a new post of Backward Class Lambardar in village Lathi Dhanora, Sub Tehsil Ladwa, District Kurukshetra was sanctioned vide letter dated 04.07.2008 of the learned Commissioner, Ambala Division, Ambala. Thus, the mustri munadi was conducted in the village for inviting the applications for the appointment to the said post from the interested/eligible candidates. In pursuance to the same, applications were received from various candidates including the petitioner and that of respondent No.4. Later on many candidates withdrew their applications and thus, finally two candidates i.e. the petitioner and respondent No.4 remained in the fray. Their character verification was got done. On the comparison of their *inter se* merits, the petitioner was found to be 40 years of age and 5th pass by qualification. Besides this he owned 02 acres of agricultural land in the village. On the other hand, respondent No.4 was found to be 35 years of age and he was matric pass by qualification. However, he did not have any land in the village. The learned Collector, on the evaluation of *inter se* merits of both the candidates, found respondent No.4 to be more meritorious and thus, appointed him as a Lambardar of the village vide his order dated 17.05.2011. Being aggrieved, the petitioner filed an appeal before the learned Commissioner, Ambala Division, Ambala. The learned Commissioner on hearing both the sides and re-appreciating the evidence on record, found no merit in the appeal filed and thus, dismissed the same vide his order dated 14.01.2014. Still being aggrieved, the

petitioner assailed the same by way of filing the revision petition before learned Financial Commissioner i.e. respondent No.1. The learned Financial Commissioner on hearing both the sides, found no perversity in the orders passed by the Collector as well as by the Commissioner thus, dismissed the revision petition filed by the petitioner and upheld both the orders vide his order dated 27.08.2015. Hence, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that the appointment of Lambardar in the present case is for Backward Class category. He has submitted that as per provisions of the Rules dealing with Backward class category, the relevant Rules applicable to the case is Rule 19-C read with Rule 19-B of the Haryana Land Revenue Rules. He has submitted that as per the provisions of these Rules, no minimum qualification is required for the appointment of BC Lambardar. He has submitted that respondent No.4 runs a photograph shop in Ladwa and thus, he does not remain in the village and hence, he would not be available for the villagers. However, the petitioner is all the time available in the village. He submits that availability of the Lambardar in the village is one of the most relevant parameters but the learned Collector failed to appreciate the same and thus, ignored the merits of the petitioner. He submits that the learned Appellate and Revisional Court had equally fallen in error in not appreciating the merits of the petitioner and thus, illegally dismissed the appeal and revision filed by the petitioner. He submits that the order passed by the Collector being perverse deserves to be set aside.

Per contra, learned counsel for respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that on the comparison of *inter se* merits of both the petitioner and respondent No.4, it is apparent that respondent No.4 is younger in age than the petitioner. Besides this, he being matric pass is more educated than the petitioner. He has submitted that respondent No.4 runs a photograph shop in Ladwa, which is hardly at a distance of 5 kms from the village and hence, there is no question that respondent No.4 would not be available for discharging his duties as Lambardar of the village. He submits that the learned Collector has rightly evaluated the merits of both the candidates and finding respondent No.4 to be more meritorious, he was rightly appointed as Lambardar of the village. He submits that finding no perversity in the same, the Appellate and Revisional Authorities have also affirmed the same. He further submits that as per record, a criminal case bearing No.460/8 under various Sections of IPC is pending against the petitioner in the Court of JMFC Karnal in which charge has also been framed. He submits that as per law settled, the order passed by the Collector can be interfered only in a case where it suffers from any perversity. However, there being no perversity in the order passed, the present petition being devoid of any merit deserves to be dismissed with costs.

Heard.

Evidently, the appointment of Lambardar in the case in hand pertains to the Backward Class category. As contended by learned counsel for the petitioner, the relevant Rule applicable in the present case

is 19-C read with Rule 19-B of the Haryana Land Revenue Rules which reads as follows:

“Rule 19-C

- (1) Notwithstanding anything to the contrary contained in these rules, where the population of members of Backward Classes in an estate is fifty or more, there shall be appointed one additional headman from amongst the members of Backward Classes for that estate.*
- (2) The conditions specified in Rule 19-B shall also be applicable to the appointment made under sub-rule (1).”*

“Rule 19-B:

Notwithstanding anything to the contrary contained elsewhere in these rules, where the population of the members of the Scheduled Castes and Scheduled Tribes including Christians as ascertained by the last preceding census is 100 or more in an estate, there shall be appointed one additional headman from amongst the members of the Scheduled Castes and Scheduled Tribes including Christians subject to the following conditions:

- i) In appointing the headman, regard shall be had among other matters, to-*
 - (a) Services rendered to the State by himself or by his family;*
 - (b) his personal influence, character, ability and freedom from indebtedness.*
 - (c) -----*
- ii) He shall be dismissed when he is sentenced to imprisonment for one year or upwards or to any heavier sentence.*
- iii) He may be dismissed when-*
 - (a) criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of his office; or*

- (b) *he is seriously embarrassed by debt;*
- (c) *owing to age or physical or mental incapacity or absence from the estate, he is unable to discharge the duties of his office; or*
- (d) *there is reason to believe that he has taken part in or concealed illicit distillation, or the smuggling or cocaine, opium or charas;*
- (e) *he takes part in any unconstitutional agitation against the Government or fails to give his active support to the Government in the maintenance of law and order; or*
- (f) *he neglects to discharge his duties or is otherwise shown to be incompetent.*
- (iv) *He shall perform all duties prescribed in rule 20.*
- (v) *He shall either deposit cash security or furnish security by way of mortgage of immovable property owned by any other person in the village to the State Government equal to the amount by which the immovable property owned by him falls short of the land revenue recoverable by him.*
- (vi) *He shall be entitled to receive remuneration admissible to a headman under rule 21.”*

There is no gainsaying that as per Rules applicable, there is no minimum qualification prescribed for a candidate being considered for the appointment of Lambardar in Backward Class category. However, on comparison of the *inter se* merits of both the candidates, respondent No.4 was matric by qualification whereas the petitioner was 5th class pass. Thus, the Collector had a choice of suitably educated candidate. Respondent No.4 was younger in age as well than the petitioner. Thus, respondent No.4 admittedly being younger in age and more qualified was obviously a better choice in the fray. The land holding is also not a requirement for the appointment of Lambardar in the Backward Class

category and thus, the same has no relevancy in the present case. Respondent No.4 was stated to be running a photograph shop in Ladwa which was hardly at a distance of 5 kms from the village, thus, the contention raised by learned counsel for the petitioner regarding the non availability of respondent No.4 is also inconsequential. Thus, finding respondent No.4 to be more meritorious, he was rightly appointed as Lambardar of the village. However, as per record, one criminal case No.460/8 under various sections of IPC was registered against the petitioner wherein the charge has already been framed and the matter is still pending. The Appellate and Revisional Authorities however found no perversity in the order passed by the Collector and thus, there is concurrent finding of all the authorities in favour of respondent No.4.

Thus, in the considered opinion of this Court, I do not find any perversity in the impugned order passed and hence, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

07.02.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No