

2024:PHHC:120974



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

CWP-19911-2018 (O&M)
Date of decision :11.09.2024

VINOD KUMAR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

Mr. Rajneesh Chadwal, A.A.G., Haryana.

Mr. Sumit Sangwan, Advocate
for respondent No.4.

HARSH BUNGER, J. [ORAL]

Petitioner (Vinod Kumar) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of *certiorari* for setting aside of order dated 09.10.2014 (Annexure P-2) passed by learned Commissioner, Hisar Division, Hisar (in short 'the Divisional Commissioner'); whereby, he has set aside the order dated 08.08.2013 (Annexure P-1) passed by learned Collector, Bhiwani (in short 'the Collector'), appointing the petitioner as *Lambardar* of Village Chiriya, Tehsil Charkhi Dadri, District Bhiwani.

A further prayer has been made for setting aside the order dated 30.10.2017 (Annexure P-4) passed by learned Financial

Commissioner (Appeals), Haryana (in short 'the Financial Commissioner') whereby, a revision petition (ROR No.74 of 2014-15) filed by the petitioner against order dated 09.10.2014 (Annexure P-2) was dismissed.

2. Briefly, upon demise of Sh. Mahipat, the previous *Lambardar* (General Category) of Village Chiriya, the proceedings were initiated for filling up the afore-said vacancy. It transpires that the Tehsildar Dadri as well as Sub Divisional Magistrate, Dadri, recommended the name of the present petitioner for appointment to the afore-said vacancy and forwarded the matter to the learned Collector, Bhiwani.

2.1 Learned Collector, Bhiwani vide order dated 08.08.2013 (Annexure P-1) appointed the present petitioner as the *Lambardar* of Village Chiriya.

2.2 Feeling aggrieved against the said order dated 08.08.2013 (Annexure P-1), respondent No.4 (Mange Ram) preferred an appeal before the learned Divisional Commissioner, which came to be allowed vide order dated 09.10.2014 (Annexure P-2) and the matter was remanded to the learned Collector, for deciding on each point of allegation and counter-allegation by passing a speaking order.

2.3 Being dis-satisfied with order dated 09.10.2014 (Annexure P-2), the petitioner preferred a revision petition (ROR No.74 of 2014-15) before the learned Financial Commissioner; however, the same was dismissed vide order dated 30.10.2017 (Annexure P-4).

2.4 In the afore-mentioned circumstances, the petitioner has filed the present writ petition before this Court, for the relief/s, as noticed herein-above.

3. Learned counsel for the petitioner submits that the learned Commissioner as well as the learned Financial Commissioner, have erred in

law and fact in passing the impugned orders by ignoring the well settled law that in the matter of appointment of *Lambardar*, the choice of Collector is not to be lightly interfered with, unless there is any patent illegality or perversity therein. It is submitted that the learned Commissioner, while remanding the case vide order dated 09.10.2014 (Annexure P-2), did not set aside the appointment of the petitioner as *Lambardar* and simply remitted the matter to the learned Collector, therefore, the order dated 08.08.2013 (Annexure P-1) passed by the learned Collector, has attained finality and is liable to be maintained. It is next submitted that the learned Financial Commissioner, has failed to appreciate the afore-said aspect and wrongly upheld the Commissioner's order. It is further submitted that the learned Collector appointed the petitioner as the *Lambardar* after considering the relative merits and de-merits of all the candidates and no interference was required to be made in the said choice of the Collector. Accordingly, it is prayed that the impugned orders may be set aside and the Collector's order dated 08.08.2013 (Annexure P-1) may be upheld.

4. Per contra, learned counsel for respondent No.4 has opposed the submissions made on behalf of the petitioner by submitting that the learned Collector, had failed to return any finding as to why the respondent No.4 was not a fit candidate for appointment as *Lambardar*, and neither any finding was recorded on the allegations and counter-allegations made by the candidates against each other. It is submitted that the suitability of the candidate is to be assessed by the learned Collector in accordance with the Rule 15 read with Rule 17 of the Haryana Land Revenue Rules, therefore, the learned Commissioner had rightly remanded the case to the learned Collector, for afresh decision and with the said remand, no prejudice has been caused to the petitioner as he would always have a right to plead his

case before the learned Collector. It is submitted that the Commissioner’s order has been further upheld by the learned Financial Commissioner, therefore, no interference is required to be made therein by this Court. Accordingly, prayer for dismissal of the writ petition has been made.

5. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

6. Here, it would be apposite to state the relative merits of the candidates (as noticed in Collector’s order), which can be summed up as under :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Vinod Kumar)</i>	<i>Resp. No.4 (Mange Ram)</i>
<i>1</i>	<i>Age</i>	<i>30 years</i>	<i>50 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>B.A. LL.B., M.BA</i>	<i>12th pass</i>
<i>3</i>	<i>Land holding/s</i>	<i>12½ acres</i>	<i>17 acres</i>
<i>4</i>	<i>Profession</i>	<i>Practicing Advocate</i>	<i>Ex-Serviceman</i>
<i>5</i>	<i>Recommended by</i>	<i>Tehsildar as well as Sub-Divisional Magistrate, Dadri</i>	<i>---</i>

6.1 A bare perusal of the above-said chart would show that the petitioner is younger in age and more educated than respondent No.4. Further, the petitioner owns sufficient land holding/s and his name was recommended by the Tehsildar as well as Sub-Divisional Magistrate, Dadri.

6.2 Although, the respondent No.4 owns more land than the petitioner; however, it is observed that so far as holding of land is concerned, same is taken into consideration only for the purpose of security towards government revenue collected by the Lambardar. The petitioner owns about 12½ acres of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the Lambardar. Similar view was taken by this Court in *Pishora Singh vs*

State of Punjab, 2015(2) RCR (Civil) 344. Furthermore, in case of *Gurpreet Singh versus Financial Commissioner (Revenue), Punjab, 2017(1) RCR (Civil) 233*, this Court has observed that land revenue stood abolished in both the State of Punjab and Haryana, long back, thus owning land by the candidates for the post of *Lambardar* would not be of much significance any further.

6.3 In *Mahavir Singh v. Khiali Ram and Others, 2009(1) RCR (Civil) 757*, Hon'ble Supreme Court held that with regard to the appointment of a *Lambardar*, age of a candidate is a relevant factor. As far as the recommendations by the lower Revenue Officer is concerned, although, the Collector is not bound by the recommendation made by the Revenue Authorities in favour of a candidate; however, due consideration is to be accorded to such recommendations as they are in a position to assess the suitability of a candidate and such recommendation would have some persuasive value. In this regard, reference can be made to the observations made in the case of *Hakam Singh vs Financial Commissioner (Revenue), Punjab, 2016(4) RCR (Civil) 335* and *Atma Singh vs The Financial Commissioner, Revenue, Punjab, 2016(1) LAR 592*.

7. In the present case, the learned Collector had duly considered the relative merits and de-merits of the candidates and had appointed the petitioner as *Lambardar* by observing as under :-

"I have heard in detail the counsel for all the parties and have duly gone through the record available on the file. Candidate namely Mange Ram while purchasing the land mentioned the less value of land than the Collector rate in the sale deed and got the same registered where as the above said land in actual was Nahri/irrigated whereas at the time of the Registration of the sale deed, it was shown as Barrani for which

collector rate is less. Therefore, by way of affixing stamp of less value caused huge Revenue loss to Government. Candidate namely Ajit Singh studied up to 7th Standard and a bearing FIR No.308 of dated 22.10.2008 under Sections 323/506 of IPC was also registered against him at P.S. Sadar Dadri. In the judgment dated 14.08.2006 as given in ROR No.55/2005-06, it is mentioned in Rule 14, 15, 16 of the Punjab Land Revenue Act, 1908 that a person could be appointed as Lambardar only when his act and character is good and he is having the capacity to maintain the reputation of post and having personal reputation and effect in his area. In the judgment dated 13.02.2009 as given in CWP No.19288/2007, it was mentioned that as per Rule 14, 15, 16 of the Punjab Land Revenue Act, 1908 that a person who is involved in the Criminal activities and he is acquitted by Court in that Criminal case, even then his involvement in the Criminal activities could not be ignored because the involvement in the Criminal case is a Stigmatic which could not be washed completely even after the acquittal. Though, Tehsildar Dadri, and SDM Dadri also recommend the name of Candidate Vinod Kumar for the appointment of Lambardar. Therefore, Candidate Sh. Vinod Kumar is deserving candidate than other candidates.

In view of the abovementioned facts, Shri Vinod Kumar son of Shri Bijender Singh, Resident of Village Chiriya, Tehsil Charkhi Dadri is appointed as Lambardar in General Category in place of deceased Lambardar namely, Shri Mahipat son of Shri Molar Ram, resident of Village Chiriya. Sanad Lambardari be issued.”

8. Considering the totality of circumstances, I am of the considered view that the petitioner clearly has an edge over the other

candidates especially respondent No.4 and he was rightly appointed as the *Lambardar*.

9. 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 any patent illegality or perversity therein.

10. Furthermore, according to the judgment in case of *Khajan Singh Versus Shamsher Singh, 1998 (3) RCR (Civil) 634*, the order dated 08.08.2013 (Annexure P-1) passed by learned Collector, has become final as the same was not set aside by the learned Divisional Commissioner, while remanding the matter to the learned Collector for fresh decision. Thus, the learned Financial Commissioner was not justified in upholding the order of the learned Divisional Commissioner.

11. In view of the above discussion, the present writ petition is allowed and the impugned order dated 09.10.2014 (Annexure P-2), passed by learned Divisional Commissioner as well as order dated 30.10.2017 (Annexure P-4), passed by learned Financial Commissioner are set aside. Consequently, the order dated 08.08.2013 (Annexure P-1), passed by the learned Collector, Bhiwani, appointing the petitioner as *Lambardar* of Village Chiriya, Tehsil Charkhi Dadri, District Bhiwani, is maintained.

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

September 11, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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