

237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20736-2018 (O/M)
Date of decision : 20.08.2024

Krishan Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Satya Vir Singh Yadav Advocate and
Mr. Utkarsh Sharma, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG Haryana.

Mr. S.N. Pillania, Advocate
for respondent No. 4.

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HARSH BUNGER, J.

1. Petitioner (Krishan Kumar) has filed the instant civil writ petition under Article 226 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 15.01.2014 (Annexure P-3) and order dated 10.12.2014 (Annexure P-4), passed by learned District Collector, Rewari (in short 'Collector') whereby respondent No. 4 (Kuldeep Singh) was appointed as Lambardar of village Jholary, Tehsil Kosli, District Rewari.

1.1 A further prayer has been made by the petitioner for setting aside the order dated 10.03.2016 (Annexure P-6), passed by the learned Commissioner, Gurgaon Division, Gurgaon (in short 'Divisional Commissioner') and also the order dated 21.12.2016 (Annexure P-8), passed by the learned Financial Commissioner, Haryana (in short

'Financial Commissioner'), whereby the appeal and revision petition filed by the petitioner were dismissed, respectively.

2. Briefly, on demise of Shri Bhawani Singh, previous Lambardar of village Jholary, proceedings were initiated for filling up the vacancy. In pursuance to the proclamation (mustri munadi) calling upon the applications for filling up the said vacancy, four applications (including the one submitted by the petitioner and also respondent No. 4- Kuldeep Singh), were received. It appears that one candidate, namely, Ramotar, withdrew his candidature in favour of respondent No. 4 and another candidate, namely, Inderpal, withdrew his candidature in favour of petitioner; ultimately, only petitioner and respondent No. 4 remained in the fray.

2.1 The learned Assistant Collector IIInd Grade, Kosli as well as learned Assistant Collector 1st Grade, Kosli recommended the candidature of respondent No. 4 for appointment to the aforesaid vacancy.

2.2 The learned Collector, vide order dated 15.01.2014 (Annexure P-3), appointed respondent No. 4 as Lambardar of village Jholary.

2.3 It transpires that the petitioner challenged the order dated 15.01.2014 (Annexure P-3) by filing an appeal before the learned Divisional Commissioner, which was allowed, vide order dated 10.07.2014 and the matter was remanded to the learned Collector.

2.4 Upon remand, the learned Collector, vide its order dated 10.12.2014 (Annexure P-4), again appointed respondent No. 4 as Lambardar of village Jholary.

2.5 Feeling aggrieved against the order dated 10.12.2014 (Annexure P-4), passed by the learned Collector, the petitioner herein preferred an appeal before the learned Divisional Commissioner, which was dismissed, vide order dated 10.03.2016 (Annexure P-6).

2.6 A further revision (ROR-278/2015-16) filed by the petitioner before the learned Financial Commissioner was also dismissed, vide order dated 21.12.2016 (Annexure P-8).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. Learned counsel for petitioner submits that the learned revenue authorities below have erred in law and facts in appointing respondent No. 4 as Lambardar of village Jholary, despite the fact that he does not have clear antecedents. It is further submitted that the petitioner is more meritorious than respondent No. 4 as the petitioner is younger in age and more educated than respondent No. 4 and even the landholding of respondent No. 4 is less than the petitioner. It is, therefore, submitted that the impugned orders are patently illegal and perverse, accordingly, the same be set aside and the petitioner be appointed as Lambardar of village Jholary.

5. Per contra, learned counsel for respondent No. 4-Kuldeep Singh has opposed the submissions made on behalf of petitioner by submitting that the learned Collector has appointed respondent No. 4 as Lambardar after considering the relative merits and demerits of the candidates and the Collector's order has been further upheld by the learned Divisional Commissioner as well as the learned Financial Commissioner, which do not call for interference by this Court. It is

submitted that respondent No. 4 is more meritorious than the petitioner inasmuch as the name of respondent No. 4 was recommended by the Assistant Collector IInd Grade as well as the Assistant Collector Ist Grade, Kosli, which is a very relevant factor and the learned Collector has concurred with the aforesaid recommendations and appointed respondent No. 4 as Lambardar. It is further submitted that respondent No. 4 is young and energetic, whereas the petitioner is novice. It is still further submitted that respondent No. 4 is sufficiently educated and has sufficient land holding in his name and is also involved in social work(s) in the village. It is contended that as per the well settled law, in the matter of appointment of Lambardar, the choice of Collector is to be respected and is not to be lightly interfered with, even if two views are possible. As regards the plea of the petitioner that respondent No. 4 does not have clean antecedents, it is submitted that a criminal complaint was filed by one Inderpal, who was also a candidate for the post of Lambardar and had withdrawn his candidature in favour of the petitioner, only to tarnish the image of respondent No. 4. It is submitted that on the basis of the aforesaid complaint of Inderpal, one case FIR No. 9 dated 15.01.2014, was lodged against respondent No. 4, however, vide judgment dated 27.01.2016 (Annexure R-4/1), passed by learned Sub Divisional Judicial Magistrate, Kosli, respondent No. 4 already stands acquitted and even an appeal filed against the aforesaid judgment dated 27.01.2016 was dismissed by the learned Sessions Judge, Rewari, vide its judgment dated 20.12.2016 (Annexure R-4/2). It is, therefore, contended that there is no disqualification/demerit attached to respondent No. 4. It is also contended that the petitioner is a defaulter of the Oriental Bank of

Commerce, which had initiated recovery proceedings against the petitioner for recovery of an amount of Rs. 9,11,553/- by filing a petition under Section 8 of Haryana Act No. 34 of 1973 (Annexure R-4/3). It is accordingly contended that the petitioner is not free from indebtness, which is also one of the relevant considerations in the matter of appointment of Lambardar. With the aforesaid submissions, learned counsel for respondent No. 4 has prayed for dismissal of the instant civil writ petition.

6. I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.

7. Here, it would be apposite to state the relative merits of the candidates (as noticed by learned Collector), which can be summed up as under :-

Particulars	Petitioner (Krishan Kumar)	Respondent No.4 (Kuldeep Singh)
Age	23	46
Educational qualification	B.A. pass	10th class pass
Land holdings	12 Acres	7 Acres
Recommended by	---	Assistant Collector Ist Grade, Kosli and Assistant Collector IInd Grade, Kosli.
Social Work (s)	---	Blood donations and family planning cases.

7.1 From a bare perusal of the above extracted comparison and upon consideration of the pleadings/material available on record, it is noticed that at the relevant time, respondent No. 4 was about 46 years of age, who had gained experience of Lambardari work as his father was Lambardar and he also remained as Sarbrah Lambardar, whereas on the other hand, petitioner was barely 23 years of age and was a novice and comparatively inexperienced. Further, the name of respondent No. 4 was

recommended by lower revenue officials and respondent No. 4 had also contributed towards the social works of the village, like, blood donations and family planning cases.

7.2 Although, the petitioner is more educated and he also holds more land than respondent No. 4, but respondent No. 4 is not an illiterate, rather he has studied upto 10th class and also holds sufficient landholding in his name.

7.3 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 Versus Financial Commissioner (Revenue), Punjab***, 2016(4) RCR (Civil) 335 and ***Atma Singh Versus The Financial Commissioner, Revenue, Punjab***, 2016(1) LAR 592.

7.4 Although, petitioner owns more land than respondent No. 4; however, it is observed that as 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. Respondent No. 4 has about 7 acres of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the Lambardar. Moreover, 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.

7.5 As regards the submission of the petitioner that respondent No. 4 does not have clean antecedents, it is observed that respondent No. 4 already stands acquitted in case FIR No. 9 dated 15.01.2014, registered under Section 170 and 420 IPC, at P.S. Kosli, vide judgment dated 27.01.2016 (Annexure R-4/1) and the said judgment was further upheld by learned Sessions Judge, Rewari, vide its judgment dated 20.12.2016 (Annexure R-4/2). A perusal of the aforesaid judgment dated 27.01.2016 (Annexure R-4/1) would show that the prosecution has failed to bring home the guilt of respondent No. 4 (Kuldeep Singh) beyond shadow of reasonable doubt. A Division Bench of this Court in ***Ram Pal Versus District Collector, Karnal, 2012 (5) RCR (Civil) 493***; observed that once a person is acquitted of the charges as none of the prosecution witnesses supported the prosecution case, it should not be taken as adverse factor against such person and he cannot be deemed to be ineligible for being appointed as Lambardar. In the said case, the Hon'ble Division Bench further observed that another judgment of this Court in the case of ***Jog Dhian Versus Financial Commissioner, Haryana and others, 2005 (2) PLR 306*** was not applicable to the facts of that case as in ***Jog Dhian's*** case (supra), the candidate for the post of Lambardar was acquitted in a criminal case by giving him benefit of doubt and in the light of that it was observed in the facts and circumstances of that case that the stigma on the candidate was not completely washed out. Similarly, in the instant case, the prosecution had failed to bring home the charge against respondent No. 4 and he was

acquitted. Therefore, there is no stigma, which is attached to the candidature of respondent No. 4 herein.

7.6 Furthermore, in the case of ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab***, 2016(1) RCR (Civil) 273; it was held by the Division Bench of this Court that the 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. It is also well established that the learned Collector is the main authority for appointment of the Lambardar. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray but also personally interacts with them.

8. In view of the above discussion and also the attending circumstances, merely because the petitioner is more educated or holds slightly more land than respondent No. 4, it cannot be said that the choice made by learned Collector, keeping in view all the relevant considerations, is illegal or perverse.

9. In this view of the matter, I do not find any merit in this writ petition and the same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

20.08.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No