

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

**CWP-2826-2015 (O&M)
Date of decision : 22.03.2024**

Gurpartap Singh

.....Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Vikas Singh, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

Mr. Veneet Chaudhary, Advocate
for respondent No.3.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 02.12.2014 (Annexure P-3) passed by respondent No.2 whereby he *set aside* the order dated 14.05.2013 (Annexure P-2) of Commissioner, Ambala and order dated 01.05.2012 (Annexure P-1) of Collector Kaithal and remanded the case in the matter of appointment of Lambardar under Rule 15 of Punjab Land Revenue Act as applicable to Haryana.

Adumbrated facts of the case are that on the death of earlier Lambardar namely Rajwant Singh of Village Lalpur, the process for the appointment of new Lambardar was initiated. Hence, *mustri munadi*/proclamation was made for inviting the applications from the interested eligible candidates. In pursuance to the same, applications from the various candidates including the petitioner and respondent No.3 were received. Their character verification was got conducted from the concerned police station and on comparison of the inter se merits of all the

candidates, the Naib Tehsildar, Ghula recommended the name of petitioner, Gurpartap Singh to the Sub Divisional Officer (N) Ghula for the appointment of the Lambardar vide his report dated 02.09.2011. Agreeing with the same, the Sub Divisional Officer recommended the name of petitioner to the Collector for his appointment of Lambardar vide his report dated 04.11.2011. On appreciation of the *inter se* merits of the candidates, Gurpartap Singh was found to be 27 years of age and matric pass by qualification. Besides this, he owned 04 kanals of land in his name, 10 kanals 06 marlas land in the name of his father and 48 kanals of land in the name of his grandfather. Respondent No.3, Mehar Singh was found to be 49 years of age and only 7th class pass. Learned Collector on evaluation of the *inter se* merits of all the candidates in the fray, found the petitioner to be the most meritorious and eligible candidate for the post of Lambardar of the Village and thus, appointed him as Lambardar of the Village vide order dated 01.05.2012. Aggrieved by the same, co-applicants namely, Gurcharan Singh and Mehar Singh assailed the said order by way of filing their independent appeals before the learned Commissioner, Ambala Division. Learned Commissioner heard all the parties concerned however, finding no perversity in the order passed by the Collector, he dismissed both the appeals vide his order dated 14.05.2013 by upholding the order of Collector. Being aggrieved, respondent No.3-Mehar Singh filed the revision petition under Section 16 of the Punjab Land & Revenue Act, 1887 before the Financial Commissioner, Haryana, Chandigarh. However, learned Financial Commissioner on hearing both the sides and re-appreciating the record, disagreed with the orders passed by the Collector and the learned Commissioner and thus, *set aside* the same by remanding the case to the

Collector for a decision afresh vide his order dated 02.12.2014. Hence, petitioner is before this Court by way of filing the present petition.

This Court while issuing notice in the present writ petition on 10.03.2015, stayed the operation of the impugned order dated 02.12.2014 passed by the Financial Commissioner and thus, the petitioner continued working on the post of Lambardar since then.

Learned counsel for the petitioner has vehemently contended that on evaluation of the *inter se* merits of all the candidates in the fray, petitioner was found to be the most eligible candidate and thus, he was rightly appointed as Lambardar of the Village by the learned Collector. He submits that this order was assailed by respondent No.3 and co-applicant/Gurcharan Singh individually. However, no perversity was found in both the appeals and thus, the same were dismissed. He has submitted that the order passed by the Collector was rightly upheld by the learned Commissioner as well. It is submitted that learned Financial Commissioner however, miserably failed to appreciate the evidence on record and the law settled. He submits that the appointment of the Lambardar is primarily the prerogative of learned Collector and his choice as per the law settled cannot be interfered with in the absence of any perversity or patent illegality. As apparent there was no perversity in the order and hence, the same was upheld by the learned Commissioner as well. However, learned Financial Commissioner in dereliction of the law settled, illegally *set aside* both the well reasoned orders and thus, remanded the case to the Collector for a decision afresh. Learned counsel for the petitioner has relied upon the judgment passed by this Court titled as Sukhjinder Pal Singh Vs. State of Punjab and others, 2016(3) RCR (Civil) 725.

Per contra, learned counsel for respondent No.3 has submitted that learned Collector and the Commissioner had fallen in error in ignoring the merits of respondent No.3. He submits that respondent No.3 was the son of the deceased lambardar as well and he had sufficient experience of working on the post of Lambardar. However, he submitted that during the pendency of the present petition, respondent No.3 has died and thus, the process for the appointment of Lambardar is to be initiated *de novo* as per the law settled. However, learned counsel for the petitioner has opposed the same and has submitted that once respondent No.3 has died, petitioner automatically deserves to continue as Lambardar of the Village. He submits that petitioner is working on the post of Lambardar since beginning.

Learned State counsel however, has submitted that in view of the notification dated 23.07.2008, no fresh appointments of Lambardars are being made in the State. She submits that after this notification, no fresh decision has been taken by the State for initiation of the process for appointment of Lambardar by way of fresh appointment in the State.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the petitioner was appointed as Lambardar of the Village by the Collector vide his order dated 01.05.2012 and the same was upheld by the learned Commissioner as well vide his order dated 14.05.2013. However, learned Financial Commissioner finding both the orders unsustainable in the eyes of law, set aside the same by remanding the case afresh. However, it is an admitted fact that this Court had stayed the operation of the impugned order passed by the learned Financial Commissioner and thus, petitioner is continuing to be Lambardar of the Village during the pendency of the present petition. In view of the law

settled, once the other candidate has died during the pendency of the petition, the process for the appointment of Lambardar is to be initiated afresh. Thus, this Court does not find any reason to differ from the same. However, this Court cannot ignore the fact that the State of Haryana has already issued notification dated 23.07.2008 as submitted by the learned State counsel and thus, the process for appointment of the new Lambardar in the State is no more in operation. Hence, no appointment of new Lambardar are being made by the State till the fresh decision is taken by the State. Keeping in view the overall facts and circumstances of the case, this Court does not find any infirmity in the order passed by the Financial Commissioner and thus, the petition being devoid of any merits is hereby dismissed. However, in view of the notification dated 23.07.2008 of the State, petitioner would continue to remain on the post of Lambardar till the State takes fresh decision for the appointment of new Lambardars. As and when the decision will be taken by the State for the appointment of new Lambardars in the State, the District Collector, Kaithal would initiate the process for the appointment of new Lambardar in Village Lalpur expeditiously and conclude the same within three months by inviting fresh applications from the date of decision to be taken by the State for the appointment of new Lambardar. Petitioner till then would continue to work as the Lambardar.

22.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

:
:

Yes/No
Yes/No