

2024:PHHC:092311



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

CWP-16894-2024 (O&M)
Date of decision :22.07.2024

SUKHJINDER SINGH

...Petitioner

Versus

THE FINANCIAL COMMISSIONER, PUNJAB, PUNJAB CIVIL
SECRETARIAT, CAPITAL COMPLEX, SECTOR-1, UNION
TERRITORY, CHANDIGARH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Naveen Sharma (Moudgil), Advocate
for the petitioner.

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* seeking quashing of order dated 18.01.2023 (Annexure P-3) passed by learned District Collector, Sangrur; whereby respondent No.4 (Davinder Singh) was appointed as *Lambardar* of village Kakarwal, Tehsil Dhuri, District Sangrur.

A further prayer has been made for setting aside the order dated 03.10.2023 (Annexure P-5) passed by the learned Divisional Commissioner, Patiala and order dated 08.02.2024 (Annexure P-7) passed by the learned Financial Commissioner (Appeals), Punjab; whereby an appeal and revision filed by the petitioner against the order(s) appointing respondent No.4 as *Lambardar*, have been dismissed, respectively.

2. Briefly, on demise of Gurinderjit Singh son of Satwant Singh, previous *Lambardar* of Village Kakarwal, Tehsil Dhuri, District Sangrur, the proceedings for filling up the afore-said vacancy to the post of *Lambardar* were initiated after seeking necessary approval from the Deputy Commissioner, Sangrur. In pursuance to the proclamation carried out for filling up the afore-said vacancy, five applications (including the one submitted by the petitioner and another by respondent No.4) were received and thereafter, their antecedents were got verified from the local police, which were found to be in order.

2.1 Upon considering the candidatures of different candidates, the Assistant Collector 2nd Grade-cum-Naib Tehsildar, Dhuri, submitted his report dated 29.11.2022 (Annexure P-1) thereby recommending the name of respondent No.4 for appointment to the afore-said vacant post of *Lambardar*. Thereafter, the candidates appeared before the Assistant Collector Ist Grade-cum-Sub Divisional Magistrate, Dhuri, who vide his report dated 21.12.2022 (Annexure P-2), recommended the name of present petitioner for appointment to the afore-said vacant post of *Lambardar*.

3. The learned District Collector, Sangrur, considered the comparative merits and de-merits of all the candidates and vide his order dated 18.01.2023 (Annexure P-3), appointed respondent No.4 (Davinder Singh) as the *Lambardar* of Village Kakarwal.

4. Being dis-satisfied with the afore-said order dated 18.01.2023 (Annexure P-3), the present petitioner preferred an appeal before the learned Divisional Commissioner, Patiala; who vide his order dated 03.10.2023 (Annexure P-5) dismissed the appeal filed by the petitioner and upheld the order dated 18.01.2023 (Annexure P-3) passed by the learned District Collector, Sangrur.

5. Petitioner further challenged the afore-said orders dated 18.01.2023 (Annexure P-3) and 03.10.2023 (Annexure P-5) before the learned Financial Commissioner, Punjab, by filing a revision petition under Section 16 of the Punjab Land Revenue Act, 1887; however, the same was also dismissed vide order dated 08.02.2024 (Annexure P-7).

6. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court.

7. Learned counsel for the petitioner submits that the learned Revenue authorities below have erred in law and fact in passing the impugned order(s), appointing respondent No.4 as *Lambardar* of Village Kakarwal. It is submitted that the learned Collector as well as the Appellate and Revisional authorities below have failed to consider and appreciate the merits and de-merits of the candidates in its right perspective. It is submitted that the petitioner is younger in age inasmuch as the petitioner is around 39 years of age, whereas, respondent No.4 is 41 years of age, therefore, he deserves preference. It is next submitted that the petitioner has not taken any loan, whereas, respondent No.4 has availed three loans, therefore, respondent No.4 cannot be said to be free from indebtedness. It is also submitted that the petitioner is a non political person, whereas, respondent No.4 is stated to be a supporter of a political party (Aam Admy Party) and in order to support the said plea, the petitioner has placed reliance upon photographs (Annexure P-8).

7.1 With the afore-said submissions, learned counsel for the petitioner has prayed that the impugned order be set aside and appropriate directions be issued for appointing the petitioner as *Lambardar* of Village Kakarwal.

8. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance.

9. In the instant case, the candidature of respondent No.4 was recommended by learned Assistant Collector 2nd Grade-cum-Naib Tehsildar, Dhuri vide his report dated 29.11.2022 and the matter was sent to Sub Divisional Magistrate, Dhuri, who instead recommended the name of the petitioner vide his report dated 21.12.2022. The Lambardari, in question, belongs to General Category. Merits and de-merits of the candidates are the relevant consideration for appointment to the post of *Lambardar*, which can be summed up as under :-

S. No.	Particulars	Petitioner	Respondent No.4
1.	Age	39 years	41 years
2.	Educational qualification	8 th standard	12 th standard
3.	Land holding/s	6 Acres	2½ Acres

A bare perusal of the above chart would show that as far as the age of the candidates is concerned, there is hardly any difference; however, respondent No.4 is more educated than the petitioner. As far as the land holding is concerned, although the petitioner holds more land; however, it is observed that holding of land is taken into consideration only for purpose of security towards government revenue collected by the Lambardar. In this regard, reference can be made to the judgment rendered by this Court in *Pishora Singh vs State of Punjab, 2015(2) RCR (Civil) 344*. Since respondent No.4 owns 2½ acres of land, which is sufficient to be taken into consideration for the purpose of security of the revenue collected by a *Lambardar*. In any case, more land cannot amount to more merit.

10. As regards the contention of the petitioner that respondent No.4 has taken three loans, therefore, he is not free from indebtedness; it is

observed that merely availing loan facility cannot be considered as a de-merit unless it is shown that a person is a defaulter in repaying the loan.

11. I also do not find any merit in the contention of the petitioner that respondent No.4 is not a non political person as he is a supporter of 'Aam Admi Party'. In order to substantiate the afore-said plea, the petitioner has placed reliance upon photographs attached as Annexure P-8; however, a mere glance thereof would show that the same appears to have been clicked at some event of Punjab Agricultural University and not at any political gathering/rally.

12. Be that as it may, a perusal of the record shows that the District Collector, upon appreciating the comparative merits, found respondent No.4 to be a fit and suitable candidate and accordingly, appointed him as 'Lambardar' of Village Kakarwal. 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 unless there is any illegality or perversity therein. It is also well settled that there should be no interference in the choice made by the Collector in the matter of appointment of *Lambardar*, even if, two views are possible. In the present case, the choice of the Collector has further been upheld by the learned Divisional Commissioner and also by the learned Financial Commissioner.

13. Upon considering the totality of circumstances, it cannot be said that the choice of the Collector, as upheld by the Appellate as well as the Revisional Authority, is either illegal or perverse.

14. No other point has been urged.

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

18.01.2023 (Annexure P-3) passed by the learned District Collector, Sangrur and as upheld by the learned Commissioner, Patiala and learned Financial Commissioner, Punjab is hereby upheld.

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

July 22, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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