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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-27391-2016 (O/M)

Date of decision : 10.09.2024

Avtar Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. N.S. Kandhola, Advocate  
for the petitioner.

Mr. Prabhdeep Singh Bhandari, AAG Punjab.

Mr. Rahul Aggarwal, Advocate  
for respondent No. 4.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Avtar Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 27.04.2011 (Annexure P-4) passed by learned District Collector, Patiala (in short 'Collector') whereby respondent No. 4 (Naggar Singh) was appointed as Lambardar of village Bal Majra, Tehsil Rajpura, District Patiala.

1.1 A further prayer has been made by the petitioner for setting aside the order dated 18.04.2013 (Annexure P-6), passed by the learned Commissioner, Patiala Division, Patiala (in short 'Divisional Commissioner') and also the order dated 22.08.2016 (Annexure P-9), passed by the learned Financial Commissioner (Appeals), Punjab (in

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

2. Briefly, on demise of Shri Nanak Singh, previous Lambardar of village Bal Majra, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation (mustri munadi) calling upon the applications for filling up the said vacancy, five persons, namely, Avtar Singh (petitioner), Gurdev Singh, Surjit Singh and Karam Singh and respondent No. 4 (Naggar Singh) applied for aforesaid vacancy and the antecedents of all the candidates were got verified from the local police, in which nothing adverse was reported against any candidate.

2.1 The Naib Tehsildar, Rajpura as well as the Tehsildar, Rajpura recommended the candidature of respondent No. 4-Naggar Singh for appointment to the aforesaid vacancy.

2.2 The learned Collector, vide order dated 27.04.2011 (Annexure P-4), appointed respondent No. 4 as Lambardar of village Bal Majra.

2.3 The petitioner challenged the order dated 27.04.2011 (Annexure P-4) by filing an appeal before the learned Divisional Commissioner, which was dismissed, vide order dated 18.04.2013 (Annexure P-6).

2.4 It transpires that the petitioner challenged the order dated 18.04.2013 (Annexure P-6) before this Court by filing CWP-23819-2013, however, the same was subsequently withdrawn with liberty to file revision petition before the learned Financial Commissioner.

2.5 Thereafter, the petitioner filed a revision (ROR-244-2014) before the learned Financial Commissioner, which was also dismissed,

Vide order dated 22.08.2016 (Annexure P-9).

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 passing the impugned order and thereby appointing respondent No. 4 as Lambardar, despite the fact that the petitioner is more meritorious than respondent No. 4. It is submitted that the petitioner is younger in age than respondent No. 4 and age of a candidate is a relevant factor. He places reliance upon the judgment rendered by Hon'ble the Supreme Court in ***'Mahavir Singh v. Khiali Ram and Others', 2009(1) RCR (Civil) 757***. It is further submitted that petitioner is more educated than respondent No. 4, however, he was wrongly ignored by the Collector. It is still further submitted that respondent No. 4 does not have clean antecedents as he was convicted under Section 325, 323, 148, 149 and 506 IPC, vide judgment dated 13.07.1979 (Annexure P-2). It is contended that a Lambardar has to be a person with clean image, which is lacking in respondent No. 4. 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 Bal Majra.

5. Per contra, learned counsel for respondent No. 4-Naggar 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

inasmuch as the name of respondent No. 4 was recommended by the Naib Tehsildar, Rajpura as well as Tehsildar, Rajpura, which is a very relevant factor. It is next submitted that respondent No. 4 is a mature man and is sufficiently educated being matric pass. It is further submitted that respondent No. 4 has more land holding than the petitioner. 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 and is a convict; it is submitted that the said conviction is an old conviction of year 1979 when respondent No. 4 was about 28 years of age and despite the conviction, respondent No. 4 was ordered to be released on probation under the Probation of Offenders Act, 1958, therefore, no disqualification is attached to the candidature of respondent No. 4. It is also submitted that there is nothing on record to remotely suggest that after his conviction in year 1979, the conduct and character of respondent No. 4 has been unsatisfactory. 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. In the present case, respondent No. 4 was appointed as Lambardar of village Bal Majra by learned Collector, vide order dated 27.04.2011 (Annexure P-4) and the said appointment has been further upheld by appellate as well as revisional authority below.

8. The appointment of respondent No. 4 has been challenged by

educated than respondent No. 4 and also on the ground that respondent No. 4 is a previous convict.

9. There cannot be any quarrel with the settled position of law that the order with respect to appointment of Lambardar is primarily administrative in nature. The decision of the District Collector is to be honoured unless the same suffers from any palpable error or patent illegality or perversity. As regards the contention of the petitioner that he is younger in age than respondent No. 4, it is observed that no doubt, the age of a candidate is a relevant factor for appointment to the post of Lambardar and Hon'ble the Supreme Court in '**Mahavir Singh v. Khiali Ram and others**', 2009(1) RCR (Civil) 757, has also held that age of a candidate is a relevant factor; however, the age of a person is to be considered in the context of his physical ability and capacity to discharge his duties as a headman of the village. No such plea has been raised that the respondent No. 4 is incapacitated from discharging the functions of a Lambardar, in view of his old age. Respondent No. 4 started performing his duties as Lambardar on the basis of his appointment by the District Collector. There is nothing on record suggestive of the fact that any complaint was made against him that he is not able to render his services properly owing to his old age. In this scenario, rejecting the claim of respondent No. 4 on the ground that he is older than the petitioner, may amount to injustice to him. Accordingly, this contention is rejected. A similar view was taken by a Division Bench of this Court in '**Ram Kumar Versus Financial Commissioner, Haryana**', 2013 (2) RCR (Civil) 1038.

9.1 As regards the educational qualification of the petitioner and respondent No. 4 is concerned, it is observed that the petitioner is 10+2

respondent No. 4 as ineligible for being appointed as Lambardar. Therefore, the said plea is also rejected.

9.2 As regards the contention of the petitioner that respondent No. 4 is a previous convict, therefore, not a fit candidate for appointment as Lambardar, it is observed that respondent No. 4 was convicted in the year 1979, whereas the proceedings for appointment of Lambardar of village Bal Majra in the present case were initiated in the year 2010. Thus, the conviction of respondent No. 4 is an old conviction. It is also observed from the judgment of conviction dated 13.07.1979 (Annexure P-2) and order of sentence dated 25.07.1979 (Annexure P-3) that although respondent No. 4 was convicted, however, he was released on probation under the Probation of Offenders Act, 1958. There is nothing on record to show that the conduct and character of respondent No. 4 has been unsatisfactory after his conviction. If a person erred in the past or has deviated from the path of rectitude, it cannot be presumed that he has not turned over a new leaf unless there are cogent reasons for doing so. In the absence of evidence of continuing tendency for crime or misconduct, it would be more apposite to assume that with greater maturity, a man may have overcome his earlier weaknesses. Considering the peculiar facts and circumstances of the present case, I am of the considered view that it would be inappropriate to link old misdemeanour of respondent No. 4 with the current conduct. It may be noticed that the antecedents of the candidates in the present case were got verified from the local police, however, nothing adverse was found against any candidate. Accordingly, the aforesaid contention of the petitioner is also rejected.

10. That apart, 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, In the instant case, the learned Collector's order has been further upheld by appellate as well as revisional authority.

11. Upon considering the totality of circumstances in the light of law settled, I do not find any perversity in the impugned order(s). All the revenue authorities i.e. the Collector, the Divisional Commissioner and the Financial Commissioner have taken a concurrent view in favour of respondent No. 4. In similar circumstances, this Court in '**Hakam Singh Versus Financial Commissioner (Revenue), Punjab and others**', 2016 (4) RCR (Civil) 335, observed as under :-

*“3. Having heard the learned counsel for petitioner at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contention raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserve to be upheld. ....”*

12. A similar view was taken by the Hon'ble Division Bench of this Court in '**Ravinder Singh Versus Financial Commissioner (Revenue), Punjab**', 2012 (68) RCR (Civil) 288.

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

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

(HARSH BUNGER)  
JUDGE

10.09.2024  
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No