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

CWP-23265-2018 (O&M)

Date of Decision: 30.04.2024

Jagsir Singh

..... Petitioner

Versus

Financial Commissioner, Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vikas Mehsempuri, Advocate, for the petitioner.
Mr. Rajeev K. Takkar, Deputy Advocate General, Punjab.
Mr. Lal Singh Sandhu, Advocate,
for respondent No.4.

Rajesh Bhardwaj, J.**CM-6035-CWP-2024**

Allowed as prayed for.

Main case

1. Prayer in the present petition is for quashing the impugned order dated 16.07.2018 (Annexure P-6) passed by respondent No.1, order dated 04.05.2016 (Annexure P-3) passed by respondent No.2 and order dated 05.01.2016 (Annexure P-1) passed by respondent No.3, being illegal and contrary to law as well as against the facts proved on record and the Courts below failed to consider the observations given against respondent No.4 by this Hon'ble Court in CWP-7094-2010 (Annexure P-7). Further prayer has been made to appoint the petitioner as Lambardar of the village and stay the operation of the impugned orders (Annexures P-6, P-3 & P-1).
2. Adumbrated facts of the case are that on the death of earlier Lambardar, namely, Tarlochan Singh, of village Shutrana, Tehsil Patran, District Patiala, on 10.09.2014, post of Lambardar in the village fell vacant



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and thus, process for the appointment of new Lambardar was initiated. After getting necessary approval, *mushtri* munadi was got conducted in the village for inviting applications from the interested candidates. In pursuance to the same, seven applications were received from candidates including Jagsir Singh (petitioner), Amrik Singh (respondent No.4). Their character verifications were got conducted from the concerned Police Station. On appreciation of their inter-se merits, learned Assistant Collector Grade II-cum- Naib Tehsildar, Patran recommended the name of Amrik Singh (petitioner) for the apportionment of Lambardar to the Assistant Collector Grade I-cum-Sub Divisional Magistrate, Patran, who agreeing with the same, forwarded the name of the petitioner for his appointment to the Collector. Finally the petitioner and respondent No.4 remained in fray for the consideration for the post of Lamabardar. On comparison of inter-se merits of both these candidates, the petitioner was found to be 35 years of age and BA pass and having one year diploma in Computer Science, by qualification. Besides this he was found to be the owner of 22 acres of land. As far as respondent No.4 is concerned, he was found to be 52 years of age and 7th standard pass by qualification. Besides this, he was found to be owner of 19½ acres of land. Learned Collector on evaluation of the inter-se merits and demerits of both the candidates, observed that though the petitioner was younger in age and more qualified than respondent No.4, however, in the overall facts and circumstances of the case, respondent No.4 was more suitable candidate and hence, appointed him as a Lambardar of the village vide order dated 05.01.2016 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal under Section 13 of



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the Punjab Land Revenue Act, 1887 (for short, 'the Act') before the Commissioner, Patiala Division, Patiala. Learned Divisional Commissioner after hearing both the sides found no perversity in the appeal and thus, dismissed the same vide order dated 04.05.2016 (Annexure P-3). Still aggrieved by the same, the petitioner filed a revision petition under Section 16 of the Act before the learned Financial Commissioner, who heard both the sides and re-appreciated the record, however, finding no perversity in the revision petition, dismissed the same vide order dated 16.07.2018 (Annexure P-6). Thus, all the three authorities had given concurrent findings in favour of respondent No.4. Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has vehemently contended that on the evaluation of the inter-se merits of both the candidates, it is apparent that the petitioner was younger in age and was more qualified than respondent No.4. He has submitted that the petitioner was not only a graduate, but also had diploma in Computer Science. He submit that majority of the villagers i.e. 110 persons supported the candidature of the petitioner for his appointment. He also submit that five Gram Panchayats had recommended the name of the petitioner. He has submitted that it is evident that the petitioner has very good reputation in the village, however, the same has been overlooked by the Collector, which view has been illegally upheld by the Appellate and Revisional Authorities as well. It is submitted that as per law settled, candidate younger in age is to be preferred for the appointment of Lambardar. He relies upon the judgment of Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1)



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RCR (Civil) 757. It is submitted that respondent No.4 is habitual of giving wrong statement as is evident from order passed by this Court in CWP-7094-2010, which was decided on 15.03.2011 filed by respondent No.4, wherein, it was observed by this Court that the petitioner (respondent No.4 herein) had wrongly claimed the benefit of hereditary claim as he did not belong to the family of deceased Lambardar Sunder Singh. He submits that regarding his education also, respondent No.4 had given wrong statement that he was 8th class fail, however, from the certificate issued by Principal of School dated 09.10.2015, his name was struck down from the school. It is thus submitted that though as per law order passed by learned Collector has to be given sanctity, but if the same suffers from perversity, then the order passed by the Collector can always be interfered by the Appellate Authority. He has submitted that it is apparent that in the overall facts and circumstances of the case, the order passed by the Collector is perverse, which has been illegally upheld by the Appellate and Revisional authorities and thus, the impugned orders being in violation of law settled, deserve to be set aside.

4. Per contra, learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner. He has submitted that on the evaluation of the inter-se merits of both the candidates, the Collector found respondent No.4 to be more suitable candidate for discharging the duties of Lambardar and thus, he has been rightly appointed as Lambardar of the village by the Collector, which order was duly upheld by both the Appellate and Revisional authorities. He has submitted that as per law settled, appointment of the Lambardar is the



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prerogative of the Collector and thus, the same has to be given the sanctity and it cannot be interfered by the Appellate authority unless there is any perversity or patent illegality. He submits that learned Collector had passed a reasoned order finding respondent No.4 to be more suitable candidate and thus, it does not suffer from any perversity whatsoever. He submits that the contention raised by counsel for the petitioner regarding the order passed by this Court in CWP 7094-2010 is not relevant at this stage and hence, the same is without any force. He submits that there being no perversity whatsoever in the impugned orders, the same deserve to be upheld and thus, the present petition being devoid of any merit deserves to be dismissed.

5. The Court has heard counsel for the parties and has gone through the record with their able assistance. Needless to say that on the comparison of the inter-se merits of both the candidates i.e. the petitioner and respondent No.4, it is evident that the petitioner was younger in age and more qualified than respondent No.4. Though there is no minimum qualification under the Act but this is an admitted fact that the petitioner was much more qualified than respondent No.4. Earlier writ petition filed by respondent No.4 was disposed of by this Court vide order dated 15.03.2011 and it has been observed by this Court in the order that respondent No.4 Amrik Singh on a pointed question could not show that he was literate and thus, there was only a contention that he was 8th class fail. However, on the appreciation of the record of the case, the Court finds that the Collector and subsequent authorities have failed to take into consideration these relevant factors for deciding the suitability of the candidates in the fray.



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held that for the appointment of Lambardar, age of the candidate is a relevant factor.

7. Thus, this Court finds that overlooking the relevant factors has adversely effected the decision taken for the appointment of Lambardar. Hence, finding the impugned orders dated 16.07.2018, 04.05.2016 & 05.01.2016 to be unsustainable in the eyes of law, the same are set aside as merits and demerits of the candidates i.e. the petitioner and respondent No.4 deserve to be re-appreciated on the anvil of law settled.

8. The case is remanded to the Collector for decision afresh after hearing both the sides and appreciating the relevant record, expeditiously preferably within a period of three months from the date of receipt of copy of this order. It is being clarified that respondent No.4 who is stated to be working as Lambardar of the village as on date, would continue to work as Lambardar till the fresh order is passed by the Collector.

8. Registry is directed to send a copy of this order to the Collector concerned forthwith, who on receipt of the same would issue notice to the parties for appearance and proceed with the matter in accordance with law.

9. The petition stands allowed in above mentioned terms.

30.04.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No