

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

CWP-23588-2018 (O&M)

Date of Decision: 08.01.2024

Malkit Singh

..... Petitioner

Versus

Financial Commissioner and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Umesh Kumar Kanwar, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Mr. P.S. Khurana, Advocate, for respondent No.4.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 19.07.2018 (Annexure P-4) passed by respondent No.1 as well as order dated 18.11.2014 (Annexure P-1) passed by respondent No.3 vide which well reasoned order dated 25.02.2016 passed by respondent No.2 appointing the petitioner as Lambardar was set aside.

Adumbrated facts of the case are that on account of death of Hardesh Singh, earlier Lambardar of the village Bhaadla Nicha, Tehsil Khanna, District Ludhiana on 09.08.2012, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. Proclamation was got done in the village for inviting applications from the interested candidates. In pursuance to the same, 8 applications from the candidates including Malkit Singh (petitioner) and Balpreet Singh (respondent No.4) were received. Character verifications of all the candidate were conducted. However, six applicants withdrew their applications and finally two candidates i.e. the petitioner and respondent No.4 remained in

fray. On consideration of their inter-se merits and de-merits, Tehsildar, Khanna recommended the name of respondent No.4-Balpreet Singh for appointment of Lambardar to the SDM, Khanna. Learned SDM, Khanna agreeing with the report of the Tehsildar, Khanna, recommended the name of respondent No.4 for the appointment of Lambardar to the Collector. On the appreciation of the applications of both the candidates, Balpreet Singh (respondent No.4) was found to be 43 years of age and 10+2 by qualification. Besides this, he owned 8 kanals of land. On the other hand, Malkit Singh (petitioner) was found to be 55 years of age and 8th standard passed by qualification and owned 73 kanlas of land in the village. Learned Collector on evaluation of the inter-se merits of all the candidates, finding respondent No.4 to be more meritorious candidate appointed him as Lambardar of the village vide order dated 18.11.2014 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal before the Commissioner, Patiala Division, Patiala. Learned Divisional Commissioner after hearing both the sides found the order passed by the Collector to be perverse and thus, set aside the same by appointing the petitioner as Lambardar of the village vide order dated 25.02.2016 (Annexure P-3). Aggrieved by the same, respondent No.4 filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who heard both the sides and re-appreciated the record. Learned Financial Commissioner found the order passed by the Commissioner to be unsustainable in the eyes of law and thus, set aside the same and upheld the order passed by the Collector vide order dated 19.07.2018 (Annexure P-4). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that in pursuance to the proclamation made, the petitioner alongwith other candidates applied for the post of Lambardar. He has submitted that perusal of the inter-se merit of the both the candidates, it is apparent that respondent No.4 was 43 years of age, 10+2 pass and owned 8 kanals of land, whereas, petitioner was 55 years of age, 8th class pass and was having more land than the petitioner as he owned 73 kanals of land. He has submitted that the petitioner remained Panch of the village for five times. He submits that respondent No.4 succeeded in getting the sale deed registered by fixing less stamp duty of Rs.23,591/- and thus, he was defaulter and was not having good economic condition. He has submitted that the learned Collector has failed to appreciate the same and thus, illegally appointed respondent No.4 as Lambardar of the village. He has submitted that in the appeal filed by the petitioner, the learned Commissioner had rightly appreciated the evidence on record where he found respondent No.4 to be a defaulter as he evaded stamp duty to the tune of Rs.23,591/- and rightly set aside the order passed by the Collector and appointed the petitioner as Lambardar of the village. He submits that in the appeal filed by respondent No.4 before the learned Financial Commissioner, he has failed to appreciate the facts and circumstances of the case and the law settled and thus, has illegally set aside the well reasoned order passed by the Commissioner and thus, illegally upheld the order passed by the Collector. He has relied upon the judgment of this Court in Ram Chander vs. State of Haryana and others, 2012(5) RCR(Civil) 54 and has submitted that respondent No.4 was a defaulter and thus, he could not have been appointed as Lambardar of the village. He further submits that in the overall facts and circumstances, the orders passed

by Collector and that by the Financial Commissioner are totally unsustainable in the eyes of law and deserve to be set aside.

Per contra, learned counsel for respondent No.4 has vehemently opposed the contentions raised by learned counsel for the petitioner. He has submitted that admittedly, respondent No.4 was younger in age than the petitioner and was more qualified than him. He has submitted that the contentions raised by counsel for the petitioner regarding respondent No.4 being defaulter for allegedly paying the less stamp duty is without any basis. He has submitted that the learned Financial Commissioner has duly appreciated the facts and found that as per report of Naib Tehsildar, respondent No.4 was not a defaulter. He has submitted that as per the law settled the Collector is the prime authority for appointing the Lambardar. He has further stated that as per law settled by the Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757 for the appointment of Lambardar, age of the candidate is a relevant factor. He has submitted that the learned Commissioner totally fallen in error in not appreciating the law settled and thus, has illegally set aside the order passed by the Collector which was duly rectified by the learned Financial Commissioner. It is submitted that in view of the facts and circumstances and the law settled, the present petition being devoid of any merit deserves to be dismissed with costs.

After hearing learned counsel for the parties and perusing the record, it is apparent that respondent No.4 was younger in age and more qualified than the petitioner. The learned Collector being the prime authority in assessing the suitability of the candidates, appointed respondent No.4 as Lambardar of the village. However, learned Commissioner set aside

the same without appreciating the evidence on record. The learned Commissioner not only set aside the order passed by the Collector, but also appointed the petitioner as Lambardar of the village and thus, has stepped into the shoes of the Collector. In the appeal filed, the learned Financial Commissioner has re-appreciated the evidence on record and heard counsel for the parties. Report filed by the Naib Tehsildar was appreciated and the contentions raised by the counsel for the petitioner regarding respondent No.4 being defaulter was also not substantiated. Thus, the order passed by the Commissioner in setting aside the order passed by the Collector was totally unsustainable in the eyes of law. The learned Financial Commissioner restored the order passed by the Collector, as the same was not found to have been suffering from any perversity.

In **Sukhjinder Pal Singh Vs. State of Punjab and others**, 2016(3) R.C.R. (Civil) 725, this Court while dealing with the same question has held as under:-

“14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.”

As per the law settled, the 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. Thus, the subjective satisfaction of the Collector cannot be ignored in a cavalier manner.

There is no dispute regarding the judgments cited by learned

counsel for the petitioner, however, the same are distinguishable on the facts and circumstances of the case in hand.

Thus, finding no merit in the present petition, the same is hereby dismissed.

08.01.2024
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No