



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

CWP-18337-2024 (O&M)
Date of decision :02.08.2024

HARDEEP SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER, PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Naveen Batra, Advocate
for the petitioner.

HARSH BUNGER, J. [ORAL]

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 21.03.2024 (Annexure P-3) passed by the learned Financial Commissioner, Punjab; whereby he has set aside the order dated 29.09.2021 (Annexure P-1) passed by learned District Collector, Patiala and also the order dated 05.07.2022 (Annexure P-2) passed by learned Commissioner, Patiala Division, Patiala, appointing petitioner as *Lambardar* of Village Ranbirpura, Tehsil and District, Patiala and has further remanded the matter back to the learned Commissioner, Patiala, for deciding the matter afresh.

2. Briefly, on account of dismissal of Sh. Ravinder Singh, previous *Lambardar* of Village Ranbirpura, Tehsil and District Patiala, on 26.07.2018; proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the afore-said

vacancy, three 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 Before the learned Tehsildar, Patiala, candidate Davinder Singh, withdrew his candidature in favour of present petitioner, accordingly, only two candidates remained in the fray i.e. the present petitioner and respondent No.4 (Gurdevjit Singh).

2.2 The learned Tehsildar, Patiala as well as learned Assistant Collector Ist Grade-cum-Sub Divisional Magistrate, Patiala recommended the name of present petitioner for appointment to the post of *Lambardar* and forwarded the file to learned District Collector, Patiala.

2.3 The learned District Collector, Patiala, vide order dated 29.09.2021 (Annexure P-1) appointed the present petitioner as *Lambardar* of Village Ranbirpura.

3. Being dissatisfied with the Collector's order (Annexure P-1), respondent No.4 preferred an appeal before the learned Commissioner, Patiala, which came to be dismissed by him vide its order dated 05.07.2022 (Annexure P-2).

4. Still aggrieved, respondent No.4 preferred a revision petition (ROR No.706 of 2022) before the learned Financial Commissioner, Punjab; who vide its order dated 21.03.2024 (Annexure P-3) allowed the revision petition filed by respondent No.4 and set aside the order dated 29.09.2021 (Annexure P-1) passed by learned District Collector, Patiala and also the order dated 05.07.2022 (Annexure P-2) passed by learned Commissioner, Patiala Division, Patiala, and has further remanded the matter back to the learned Commissioner, Patiala, for deciding the matter afresh.

5. In the afore-mentioned circumstances, the petitioner has filed the present petition before this Court.

6. Learned counsel for the petitioner submits that the learned Financial Commissioner has erred in law and fact in passing the impugned order dated 21.03.2024 (Annexure P-3); whereby, the learned Financial Commissioner has although set aside the order dated 29.09.2021 (Annexure P-1) passed by learned District Collector, Patiala and also the order dated 05.07.2022 (Annexure P-2) passed by learned Commissioner, Patiala Division, Patiala, but has further remanded the matter back to the learned Commissioner, Patiala, for deciding the matter afresh. It is submitted that the impugned order passed by the learned Financial Commissioner is apparently defective inasmuch as that despite setting aside the orders passed by the learned Collector as well as learned Commissioner, the matter was remanded to the learned Commissioner only for fresh decision; therefore, the order dated 21.03.2024 (Annexure P-3) is liable to be set aside on this ground alone. It is further submitted that the learned Financial Commissioner has also not taken note of the well settled position of law that the choice of Collector in the matter of appointment of *Lambardar* is not to be lightly interfered with, even if two views are possible, unless there is any patent illegality or perversity therein. Learned counsel for the petitioner, while referring to the tabulated chart at page 6 of the paper-book, depicting comparison of the relative merits/de-merits of the candidates; submitted that the petitioner is more meritorious than respondent No.4 and was rightly appointed as *Lambardar* of the Village. However, the said appointment has wrongly been set aside by the learned Financial Commissioner. Accordingly, it is prayed that the impugned order

be set aside and the Collector’s order dated 29.09.2021 (Annexure P-1), appointing the petitioner as *Lambardar* of the village, be restored.

7. Notice of motion.

8. At this stage, Mr. Anil Kumar Rana, Advocate, appears and files his *Vakalatnama* on behalf of respondent No.4, which is taken on record, subject to all just exceptions. Since the impugned proceedings/orders are quasi judicial in nature, learned counsel for respondent No. 4 has chosen to argue the matter.

9. Learned counsel appearing on behalf of respondent No.4 opposes the submissions made on behalf of the petitioner and submits that the learned Financial Commissioner has rightly passed the impugned order dated 21.03.2024 (Annexure P-3) as the learned Collector, had not discussed the merits of respondent No.4 and nor it has been mentioned as to why respondent No.4 was not suitable for the post of *Lambardar*, despite the fact that he was having more land holding than the petitioner herein. Accordingly, prayer for dismissal of the writ petition has been made.

10. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

11. Here, it would be apposite to state the relative merits of the candidates, which can be summed up as under :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Hardeep Singh)</i>	<i>Resp. No.4 (Gurdevjit Singh)</i>
<i>1</i>	<i>Age</i>	<i>45 years</i>	<i>52 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>10+2</i>	<i>Matric</i>
<i>3</i>	<i>Land holding/s</i>	<i>9 Bighas</i>	<i>24 Bighas</i>
<i>4</i>	<i>Recommended by</i>	<i>Tehsildar, Patiala, Assistant Collector Ist Grade, Patiala</i>	<i>---</i>

11.1 A bare perusal of the above chart would show that petitioner is younger in age; is more educated than respondent No.4 and his name was

recommended by the learned Tehsildar, Patiala as well as Assistant Collector Ist Grade, Patiala.

11.2 In *Mahavir Singh v. Khiali Ram and Others, 2009(1) RCR (Civil) 757*, Hon'ble Supreme Court held that with regard to the appointment of a *Lambardar* in the State of Punjab, age of a candidate is a relevant factor. As far as the recommendations by the lower Revenue Officer is concerned, although, the Collector is not bound by the recommendation made by the Revenue Authorities in favour of a candidate; however, due consideration is to be accorded to such recommendations as they are in a position to assess the suitability of a candidate and such recommendation would have some persuasive value. In this regard, reference can be made to the observations made in the case of *Hakam Singh vs Financial Commissioner (Revenue), Punjab, 2016(4) RCR (Civil) 335* and *Atma Singh vs The Financial Commissioner, Revenue, Punjab, 2016(1) LAR 592*.

11.3 Although, respondent No.4 owns more land than the petitioner; however, it is observed that as far as holding of land is concerned, same is taken into consideration only for the purpose of security towards government revenue collected by the *Lambardar*. Petitioner has about 09 Bighas of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the *Lambardar*. Moreover, in case of *Gurpreet Singh versus Financial Commissioner (Revenue), Punjab, 2017(1) RCR (Civil) 233*, this Court has observed that land revenue stood abolished in both the State of Punjab and Haryana, long back, thus owning land by the candidates for the post of *Lambardar* would not be of much significance any further.

11.4 Furthermore, 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, even if two views are possible, unless there is any patent illegality or perversity therein. It is also well established that the learned 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, could not have been ignored in a cavalier manner by the learned Financial Commissioner.

12. Besides, I have also gone through the order passed by the learned Collector, Patiala and a perusal thereof would show that the learned Collector has referred to the relative merits and de-merits of the petitioner as well as respondent No.4 and thereafter, learned Collector proceeded to highlight the better merits of the petitioner and accordingly, appointed the petitioner as *Lambardar*. The order passed by the learned District Collector, Patiala is well reasoned and justified, which does not call for any interference. Moreover, the learned Collector's order was further upheld by the learned Commissioner, Patiala.

13. That apart, I also find substance in the submissions made by learned counsel for the petitioner that although the learned Financial Commissioner has set aside the order passed by the learned District Collector as well as the learned Commissioner, even then, the matter was remanded only to the learned Commissioner for fresh decision, which shows the non-application of mind by the learned Financial Commissioner.

14. In the afore-mentioned facts and circumstances, I am of the considered view that the order dated 21.03.2024 (Annexure P-3) passed by

learned Financial Commissioner, Punjab is unsustainable and the same is accordingly set aside. Resultantly, the instant writ petition is allowed and the order dated 29.09.2021 (Annexure P-1) passed by learned Collector, Patiala, appointing the petitioner as *Lambardar* of Village Ranbirpura, Tehsil and District Patiala, is upheld.

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

August 02, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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