

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

CWP-29974-2017

Date of decision : 05.02.2024

Juber Mohammad

.....Petitioner

versus

Financial Commissioner Revenue Dept. Haryana and ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Neeraj Gupta, Advocate
for respondent No.5.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 23.05.2016 (Annexure P-5) passed by respondent No.1 whereby the well reasoned orders dated 19.04.2011 and 15.12.2011 passed by respondents No.2 and 3 respectively have been set aside and the matter has been remanded to the Court of respondent No.3 i.e. Collector, Mewat to initiate fresh proceedings of Lambardar of Village Naheda, Tehsil Punhana, District Mewat, even without hearing the petitioner or his counsel as the petitioner has been proceeded ex parte vide order dated 25.01.2016. Further prayer has been made for staying the operation of order dated 23.05.2016.

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Jahur Khan, the process for the appointment of new Lambardar was initiated. The proclamation was made in the village for inviting the applications from the eligible interested candidates. In

pursuance to the same, two applications were received i.e. from the petitioner and respondent No.5. Their character verification was got done from the local police. On perusal of the applications, petitioner-Juber Mohd. was found to be 45 years of age and Graduate by qualification. Besides this, he owned 2 acres of land. So far respondent No.5 is concerned, he was found to be 47 years of age and had passed 8th class and also he was found to be the son of deceased Lambardar. Besides this, he owned 1¾ acres of land. On evaluation of their *inter se* merits, the Assistant Collector 2nd Grade sent his report dated 13.01.2009 to the Collector recommending the name of respondent No.5 to be appointed as Lambardar of the Village. Learned Collector on evaluation of the *inter se* merits of both the candidates, found petitioner-Juber Mohd. to be more meritorious and suitable candidate and thus, appointed him as Lambardar of the Village vide his order dated 19.04.2011. Aggrieved by the same, respondent No.5 filed the appeal before the learned Commissioner, Gurgaon. Learned Commissioner on hearing both the sides, found no perversity in the order passed by the Collector and thus, dismissed the appeal vide his order dated 15.12.2011. Being aggrieved respondent No.5 further assailed the said order by way of filing the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner. As the petitioner did not appear before respondent No.1, thus, he was proceeded *ex parte* vide order dated 25.01.2016 and on hearing the arguments, learned Financial Commissioner accepted the revision petition and remanded the case to the Collector for a decision afresh vide her order dated 23.05.2016. Hence, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on perusing the *inter se* merits of both the candidates i.e. petitioner and respondent No.5, it is apparent that the petitioner was most meritorious and thus, he was appointed as Lambardar of the Village. He submits that petitioner was younger in age than respondent No.5 and was much more qualified being Graduate. He submits that respondent No.5 produced the certificate in support of his qualification which was found to be forged and hence, the petitioner was more suitable and thus, he was rightly appointed as Lambardar of the Village. He submits that the appointment made by the Collector was upheld by the Appellate Court as well as the appeal filed by respondent No.5 was dismissed by learned Commissioner. He submits that learned Financial Commissioner without appreciating the evidence on record and the law settled has illegally *set aside* both the well reasoned orders passed and thus, illegally remanded the case to the Collector for decision afresh. He submits that as respondent No.5 produced the forged certificate in support of his qualification, hence he was rightly rejected by learned Collector. He submits that as per the law settled, appointment made by the Collector cannot be interfered unless the same suffers from any perversity however, there being no perversity, learned Financial Commissioner has miserably failed in appreciating the law settled and thus, the impugned order passed by learned Financial Commissioner is unsustainable in the eyes of law. He submits that the impugned order is against the law settled, and as such, the petition deserves to be allowed.

Per contra, learned counsel for respondent No.5 has vehemently opposed the submissions made by counsel for the petitioner.

He submits that petitioner was drawing the pension in the name of his mother-in-law by wrongful means however, learned Collector did not appreciate the same. He submits that as the antecedents of the petitioner were not discussed by the Collector thus, the same suffered from perversity and hence, learned Financial Commissioner has rightly remanded the case for decision afresh. It is submitted by him that the petition being devoid of any merits deserves to be dismissed.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that on comparison of *inter se* merits of both the candidates, they were almost at par. However, there are allegations and counter-allegations by both the sides. Respondent No.5 is said to have produced a forged certificate in support of his qualification acquired whereas, the petitioner is alleged to have been drawing the pension in the name of his mother-in-law by wrongful means. These allegations could not be appreciated in detail by learned Collector and hence the learned Financial Commissioner has remanded the case for decision afresh. There is no gainsaying that though the appointment made by the Collector cannot be interfered in ordinary circumstances, however, in case of perversity, the same can be interfered with. The allegations and counter-allegations made against both the candidates need to be enquired into in detail as the Lambardar is the Headman of the Village and his reputation in the Village is of prime importance. Thus, this Court is in agreement with the view taken by learned Financial Commissioner in remanding the case to the Collector for decision afresh after hearing both the parties.

Resultantly, finding no merit in the present petition, the same is hereby dismissed. However, in the facts and circumstances, learned

Collector is directed to decide the case afresh after hearing both the sides expeditiously, preferably, within three months from the date of receipt of copy of this order. Office is directed to send copy of this order to the Collector concerned forthwith.

05.02.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No