

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

CWP-21944-2021 (O&M)
Date of decision :05.08.2024

KULBIR @ KULVIR SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER, REVENUE, HARYANA,
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Wazir Singh, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

Mr. Vikram Singh, Advocate
for respondent No.4.

HARSH BUNGER, J. [ORAL]

Petitioner (Kulbir @ Kulvir Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *certiorari* for setting aside the order dated 14.10.2021 (Annexure P-7) passed by the learned Financial Commissioner (Revenue), Haryana, whereby, he had set aside the order dated 02.09.2020 (Annexure P-4) passed by the learned Commissioner, Hisar Division, Hisar and had restored the order dated 25.09.2019 (Annexure P-3) passed by the learned Collector, Jind and appointed respondent No.4 (Sikandar) as the *Lambardar* of Village Paju Khurd, Tehsil Safidon, District Jind.

2. Briefly, on demise of Sh. Thambu Ram, *Lambardar* (general category) of Village Paju Khurd, proceedings were initiated for filling up the vacancy. In pursuance to the proclamation carried out in the village for filling up the afore-said vacancy, four applications were received including the one submitted by the petitioner (Kulbir @ Kulvir Singh) and another by respondent No.4 (Sikandar).

3. It appears that during the pendency of the proceedings before the lower Revenue Officers, two candidates namely, Jitender and Ankit, remained absent, accordingly, they were proceeded against *ex-parte* and only two candidates remained in the fray i.e. the petitioner and respondent No.4.

4. The learned Tehsildar, Safidon and Sub-Divisional Magistrate, Safidon, recommended the candidature of the present petitioner for appointment to the afore-said vacancy of *Lambardar* and the matter was sent to the learned Collector, Jind.

5. The learned Collector, Jind, upon consideration of the relative merits and de-merits of the candidates, appointed respondent No.4 as the *Lambardar* of Village Paju Khurd, Tehsil Safidon, District Jind, vide order dated 25.09.2019 (Annexure P-3).

6. Feeling aggrieved against the above-said order dated 25.09.2019 (Annexure P-3), the present petitioner preferred an appeal before the learned Commissioner, which came to be allowed vide order dated 02.09.2020 (Annexure P-4), whereby, the Collector's order dated 25.09.2019 (Annexure P-3) was set aside and the petitioner was appointed as *Lambardar* of Village Paju Khurd.

7. Being dissatisfied with the afore-said order dated 02.09.2020 (Annexure P-4), the respondent No.4 preferred a Revision Petition

(ROR-5-2020) before the learned Financial Commissioner, who vide its order dated 14.10.2021 (Annexure P-7) allowed the revision petition and set aside the Commissioner's order and further restored the order passed by the learned Collector, appointing respondent No.4 as the *Lambardar* of Village Paju Khurd.

8. In the afore-mentioned facts and circumstances, the present writ petition has been filed before this Court for the relief, as noticed here-in-above.

9. Learned counsel for the petitioner submits that the learned Financial Commissioner, has erred in law and fact in setting aside the well-reasoned and justified order passed by the learned Commissioner, whereby, the petitioner was appointed as the *Lambardar*. It is submitted that the petitioner is more meritorious than respondent No.4, inasmuch as that he is more educated and holds more land than respondent No.4 and even the lower Revenue Officers, have recommended his name, which is a vital consideration. It is further submitted that the learned Financial Commissioner, has wrongly set aside the order passed by the learned Commissioner, on the sole ground that the petitioner is not residing in the village and is rather residing at Panipat. Learned counsel for the petitioner submits that the afore-said finding returned by the learned Financial Commissioner, is factually incorrect as there are various documents on record, which clearly show the residence of the petitioner at Village PajuKhurd.

9.1 With the afore-said submissions, learned counsel for the petitioner prayed for setting aside of the impugned orders and for upholding the order dated 02.09.2020 (Annexure P-4) passed by the learned Commissioner.

10. Per contra, learned counsel appearing for respondent No.4 opposed the submissions made on behalf of the petitioner, by submitting that the learned Commissioner, had wrongly set aside the order passed by the learned Collector, by ignoring the well-settled law that the choice of the Collector in the matter of appointment of *Lambardar*, is final and is not to be interfered with lightly, even if two views are possible. It is further submitted that the learned Financial Commissioner, had rightly set aside the order passed by the learned Commissioner, and had restored the Collector's order. Learned counsel for respondent No.4 further contends that respondent No.4 is younger in age than the petitioner and is sufficiently educated and also holds sufficient land in his name and therefore, no fault can be found with the choice of the Collector. It is also submitted that the most vital consideration for appointment of *Lambardar* is the availability of the candidate within the village, whereas, the petitioner is not a resident of the village and is residing at Panipat with his family. It is submitted that the said fact has been proved on the record by way of a report from the Sub-Divisional Officer and taking note of the said fact, the learned Financial Commissioner, had rightly set aside the Commissioner's order.

10.1 With the afore-said submissions, learned counsel for respondent No.4 prayed for dismissal of the present writ petition.

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

12. Concededly, the respondent No.4 was appointed as the *Lambardar* of the village by the learned Collector. It is well-settled law that the choice of the Collector in the matter of appointment of *Lambardar*, is to be respected and is not to be lightly interfered with, unless there is patent illegality or perversity therein. The learned Commissioner, had set aside the

Collector's order on the ground that the petitioner is more educated and had more land holding than respondent No.4 and also noticing that the lower Revenue Officers have recommended his name.

12.1 The learned Financial Commissioner, has set aside the Commissioner's order and further upheld the order passed by the learned Collector, by observing as under :-

"I have heard both the parties and have gone through the record of the case. Collector, Jind had vide his order dated 25.09.2019 appointed Sikandar as Lambardar on the basis of his lower age, better reputation in the village, participation in the social activities and being the grandson of the deceased Lambardar. Commissioner, Hisar Division, Hisar set aside the order of Collector, Jind on the basis that respondent No.3 has better educational qualifications and more land. He further observed that hereditary claim in case of appointment of Lambardar comes into play only when both the applicants have equal qualification. Commissioner, Hisar Division, Hisar also observed that allegations regarding encroachment on Panchayat land by petitioner and staying of the respondent No.3 in the city were not proved. However, it appears that Commissioner, Hisar Division, Hisar failed to consider the report of SDO (Civil) Safidon dated 19.02.2020 which is addressed to Commissioner, Hisar Division, Hisar and is available in the file of Court of Commissioner, Hisar. The relevant para of the report is as under :-

"This is a request in your service by referenced letter that Kulbir Singh son of Sh. Ramkaran, resident of village Paju Khurd, Tehsil Safidon, District Jind, in connection with his residence, the undersigned reached on the spot in presence of respectable persons of the

village, the candidates for lambardar namely Kulbir Singh, Sikandar and Chowkidar and it was found that a house comprising two room, a Kitchen and a toilet constructed near Poultry farm established in the field and on asking from the workers in poultry farm, it was told that Kulbir Singh and his wife resides/lives in this two rooms house and Kulbir Singh son of Sh. Ramkaran resident of village PajuKhurd, Tehsil Safidon, District Jind is having resident proof/certificates like Ration card, Aadhar card, Voter card and some other documents of this address. On enquiry from respectable persons and Candidate lambardar Sikandar, it was asked that Kulbir Singh son of Sh. Ramkaran has made his residence in the city of Panipat and he himself has admitted that for the education of the children, he got a residence in Panipat city. This report is sent to your service for further necessary action.”

From the report, it is clear that Kulbir is residing in Panipat and he himself has agreed that for his children studies he is living in Panipat City. Further reports from other Lambardars, Chowkidar and Panches of the village, Anganwadi workers and Councilor of Municipal Corporation, Panipat also state that he is living in Panipat, it will be difficult for a person not residing in the village to perform the duties of lambardar. Further, Sikandar is young in age and grandson of the deceased Lambardar. Keeping the above in mind, the order of Commissioner, Hisar Division, Hisar dated 02.09.2020 I set aside and the order of Collector, Jind dated 25.09.2019 is restored. The record of the Lower Courts be returned to the respective Courts and the file be consigned to the record room.”

12.2 A perusal of the above extracted observations made by the learned Financial Commissioner, would manifest that the petitioner is not a resident of the village and is residing at Panipat City, which fact has been admitted by him as well.

12.3 In *Sanjay Yadav v. State of Haryana, 2018 (4) Law Herald 3152*, a co-ordinate Bench of this Court observed as under:-

“6. Even the certificate issued by the Sarpanch dated 05.07.2017, on the very next day after the order was passed by the Commissioner, would go on to show that while certifying that the petitioner's father was Lambardar and they had land and a residential house in the village and at Rewari, it was mentioned that sometime they reside at the village and sometime at Rewari. Relevant portion reads as under:

"I, Anand son of Shri Sarjit Singh Sarpanch, Gram Panchayat, Hussainpur (Hari Nagar) know personally Sanjay Yadav s/o Col. Ram Singh. Before Sanjay Yadav, Col. Ram Singh was Numberdar, at that time Sanjay Yadav was Sarbrah Numberdar. They had land in the village and there is their residential house on it. They have residence at the village and at Rewari. Sometime they reside at the village and sometime at Rewari. He always remains at disposal whenever there is any Numberdar work or any social work. They have an agriculture land form of 25 acres in the village."

7. On an overall analysis of the factual background, as such, the findings recorded by the Commissioner that the petitioner is not permanent resident of the village and residing more at Rewari, cannot be faulted, in any manner. There is no denying the fact that the availability of the Lambardar of the Village and his appointment is for the convenience of the public. Once the person himself is not available, it would frustrate the purpose and would cause harassment to the general public. A

*similar view was taken by this Court in **Bhag Singh v. Financial Commissioner, Appeals-II, Punjab & others 2011 (2) PLR 399 and Naib Singh v. Financial Commissioner (Revenue), Punjab & others 2013 (35) RCR (Civil) 263.***

8. In such circumstances, the Commissioner was well justified in setting aside the order of appointment of the petitioner...”

12.4 In **Gurinder Singh v. State of Punjab, 2015 (3) RCR (Civil) 1041**, another co-ordinate bench of this Court observed as under:-

7. Para 307 of the Land Administration Manual, prescribes the duties of a Headman (i.e. Lambardar), which reads as under:-

*"307. **Duties of headmen.** The headmen of a village act on behalf of the landowners, tenants and other residents in their relations with the state. They are bound to attend when summoned by officers of govt., and to aid them in the execution of their public duties. Their important functions as regards the prevention and detection and detection of crime do not fall within the scope of this work. Their chief duties are set forth in some detail in a vernacular memorandum which is given to each headmen on his appointment. Those connected with land administration may be summarised as follows:-*

A. duties Government-

1. to collect and pay into the treasury the land revenue and all sums recoverable as land revenue.

2. To report to the tahsildar- (a) the deaths of assignees and pensioners, and their absence for over a year (b) encroachments on, or injury to, Government property.

3. to aid-

(a) in carrying out harvest inspections, surveys, the record of mutations and other revenue business;

(b) in providing, on payment, supplies or means of transport for troops and officers of Government.

4. to render all possible assistance to the village postman, while passing the night in the village, in safeguarding the cash and other valuables that he carries.

B. Duties to landowners and tenants of estate-

1. to acknowledge every payment received from them in their parcha books.

2. To collect and manage the common village fund, and account to the shareholders for all receipts and expenditure"

xxx

xxx

xxx

9. The above duty charter clearly demonstrates that the availability of the Lambardar to the village community is essential to do full justice to the duties of a Lambardar. It is not a part-time job, rather a Lambardar has to remain in the village round to clock.

10. The qualifications of the petitioner are not in dispute. However, the petitioner is employed with the State of Punjab. In the present context, merit of the petitioner is to be seen from the view point of his utility to the village community. For rendering service to the village community, as enumerated in the Land Administration Manual, the presence of the Lamberdar in the village has to be ensured. In the event of non-availability of the Lamberdar, the superior qualifications of the petitioner are of no consequence.

12.5 Further, a Division Bench of this Court in ***Neeraj Kumar v. State of Haryana, 2013 (4) RCR (Civil) 207***, held as under:-

“12. The duties of a lambardar, as suggested and held in the impugned order, are not limited in nature. A lambardar is called upon, by the revenue, police and administrative officers, to assist in various matters like disputes regarding possession of land, demarcation of land, identification of accused persons and attending to revenue and police officers when they visit the village for inspection of crops or for other official matters. A lambardar is called upon by inhabitants of his village to attest

documents, identify them when they register document etc. To hold that duties of a lambardar are limited in nature or to suggest that his office is merely ornamental, in our considered opinion, is an incorrect enunciation of the office of a lambardar and his duties. The availability of a lambardar, in the village, is, therefore a significant factor to be considered, while appointing a lambardar and if a question mark is raised upon a candidate's availability in the village, the Collector would, necessarily, be required to consider and decide such an objection...”

12.6 In view of the above referred settled position, it is evident that availability of *Lambardar* in the village is a significant factor, especially considering the nature of duties to be performed by *Lambardar*. Therefore, if learned Financial Commissioner has chosen a candidate who is available in village in preference to a candidate who may be visiting the village occasionally, no fault can be found with such choice.

12.7 Respondent no.4 is younger in age than petitioner and is sufficiently educated upto 10th Class and he holds sufficient land (9 kanals) in his name.

12.8 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.

12.9 Although, the petitioner owns more land than respondent No.4; 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*. Respondent no.4 has about 09 *kanals* 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.

12.10 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.

13. Considering the totality of circumstances, there is no scope for any interference by this Court in the impugned orders and finding no merit in the instant writ petition, the same is dismissed.

14. The Collector's order dated 25.09.2019 (Annexure P-3) appointing respondent No.4-Sikandar as *Lambardar* (General Category) of Village Paju Khurd, Tehsil Safidon, District Jind; as upheld by learned Financial Commissioner vide order dated 14.10.2021 (Annexure P-7) is maintained.

15. No other argument was raised.

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

August 05, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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