

222

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9301-2016 (O&M)

Date of Decision: 09.01.2024

Parshotam Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Deepak Verma, Advocate, for the petitioner.
Mr. Arun William, Assistant Advocate General, Punjab.
Mr. Amit Kumar Saini, Advocate, for respondent No.5.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the order dated 27.11.2015 (Annexure P-4) passed by learned Financial Commissioner, Appeals-I, Punjab, Chandigarh whereby respondent No.5 has been wrongly appointed as Lambardar of the village Surapur, Tehsil Nawashahar, District Shaheed Bhagat Singh Nagar.

Adumbrated facts of the case are that on account of death of Sewa Singh, earlier Lambardar of the village Surapur, Tehsil Nawashahar, District Shaheed Bhagat Singh Nagar on 07.05.2009, 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, five applications were received. Character verifications of all the candidate were conducted. However, only Kulbir Singh, Parshotam Singh and Harmail Singh appeared alongwith their counsel before the Collector. On the comparison of inter-se merits of these candidates, their antecedents were found as under:-

Name	Age	Education	Land	Recommendation
Kulbir Singh	38 years	10+2	5 kanals	SDM, Nawashahar

Parshotam Singh	65 years	10 th	8 fields	-
Harmail Singh	58 years	7 th	10 fields	-

Learned Collector on evaluation of the inter-se merits of all the candidates, finding Harmail Singh to be more meritorious candidate appointed him as Lambardar of the village vide order dated 22.11.2010 (Annexure P-1). Aggrieved by the same, Parshotam Singh (petitioner) and Kulbir Singh-respondent No.5, filed their independent appeals before the Commissioner, Jalandhar Division, Jalandhar, which were heard and decided together. Learned Divisional Commissioner on hearing both the sides, set aside the order passed by the Collector and appointed Parshotam Singh (petitioner) as Lambardar of the village vide a common order dated 31.05.2013 (Annexure P-3). Aggrieved by the same, Harmail Singh and respondent No.5-Kulbir Singh filed their independent appeal and revision petition before the learned Financial Commissioner. The learned Financial Commissioner on hearing all the parties, disagreed with both the orders passed by the Collector and the Commissioner and dismissed the ROA-76-2013 filed by Harmial Singh and accepted the ROR-599-2013 filed by respondent No.5-Kulbir Singh and thus, appointed him a Lambardar of the village vide order dated 27.11.2015 (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 on comparison of inter-se merits of all the candidates, the petitioner was the most meritorious candidate, who was illegally ignored by the learned Collector and thus, order passed by the Collector was rightly set aside by the Commissioner by appointing him as Lambardar of the village.

He submits that the learned Financial Commissioner has, however, fallen in error in setting aside the same by appointing respondent No.5 as Lambardar of the village. He has submitted that the petitioner is matriculate and retired from Northern Railway with a clean record. Besides this, the petitioner owned 56 kanals of land in village Surapur as well as 9 kanal 2 marlas of land in adjoining village Pallian. He submits that in comparison to the same, respondent No.5 owned less land than the petitioner. He submits that respondent No.5 is the President of Mini Bus Transport Union, Nawanshahar and also the President of Multi Purpose Cooperative Agricultural Society, Surapur, thus, it is evident that he would not be available for discharging his duties as Lambardar in the village. He further submits that the learned JMIC, SBS Nagar vide order dated 09.11.2015 summoned respondent No.5 to face trial for the offence under Sections 499/500 IPC read with Section 34 IPC, thus, it is evident that in the light of the parameters laid down in Rule 15 of the Punjab Land Revenue Rules, the petitioner was the most meritorious candidates and hence, the order passed by the Collector suffers from perversity, which was rightly set aside by the learned Commissioner. He submits that the learned Financial Commissioner has illegally set aside the same by appointing respondent No.5 as Lambardar of the village. It is further submitted that the impugned order passed by the learned Financial Commissioner being unsustainable in the eyes of law, deserves to be set aside.

Per contra, learned counsel for respondent No.5 has opposed the submissions made by learned counsel for the petitioner. He has submitted that on the comparison of the inter-se merits of all the candidates, respondent No.5 was obviously found to be more meritorious candidate in

the fray. He has submitted that respondent No.5 was younger in age being 39 years of age, whereas, the petitioner was 74 years of age. He submits that besides this respondent No.5 was more educated than the petitioner. He submits that respondent No.5 was also appointed as Panch of the village by the villagers unanimously. It is submitted that respondent No.5 also remained President of the Multi Purpose Cooperative Agricultural Society, Surapur. He has submitted that in the overall facts and circumstances, respondent No.5 being most meritorious candidate in the light of mandate of Rule 15 of the Punjab Land Revenue Rules, the learned Financial Commissioner has rightly set aside the order passed by the Commissioner and thus, appointed respondent No.5 as per law settled. It is submitted that the order passed by the learned Financial Commissioner being totally in accordance with law deserves to be upheld by dismissing the present petition with costs.

Heard.

After hearing learned counsel for the parties and perusing the record, it is evident that on conducting proclamation for inviting the applications, the petitioner and respondent No.5, filed their applications alongwith other candidates. Learned Collector appointed Harmail Singh as Lambardar of the village, whereas, the Commissioner appointed petitioner - Parshotam Singh and thereafter, learned Financial Commissioner appointed respondent No.5- Kulbir Singh. Thus, it is evident that all the three authorities have appointed the candidate of their choice.

There is no gainsaying that the learned Collector is the prime authority for the appointment of the Lambardar on evaluation of inter-se merits and demerits of all the candidates in fray. However, in the present case the Appellate and Revisional authorities instead of remanding the case

to the Collector had chosen to appoint a candidate whom they found more meritorious as per their assessment. This Court finds the view taken by the authorities below not sustainable in the eyes of law. Harmail Singh, who was appointed by the Collector has not assailed the order passed by learned Financial Commissioner.

In the considered opinion of this Court, a right recourse for the higher authorities was to remand the case to the Collector for decision afresh after hearing all the candidates, which course has not been adopted by them. Thus, the impugned order dated 27.11.2015 passed by the learned Financial Commissioner is set aside and the case is remanded to be Collector for decision afresh. The learned Collector would hear all the candidates and evaluate their inter-se merits and demerits and pass an order afresh appointing Lambardar of the village keeping in view the facts and circumstances of the case, within a period of three months from the date of receipt of certified copy of this order.

Petition stands allowed in above terms and pending application, if any, also stands disposed of.

09.01.2024			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No