

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

CWP-29315-2018

Date of Decision: 08.01.2024

Hardish Kaur

..... Petitioner

Versus

Financial Commissioner and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sherry K. Singla, Advocate, for the petitioner.

Mr. Arun William, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J.

Prayer in the present petition is for setting aside the impugned order dated 21.12.2017 (Annexure P-5) passed by respondent No.1 in ROR No.332 of 2017 and order dated 18.01.2017 (Annexure P-3) passed by respondent No.2 and order dated 04.06.2015 (Annexure P-1) passed by respondent No.3 whereby the respondent authorities had ordered to conduct fresh proclamation in the village for the appointment of Lambardar of village Saila Khurd, Tehsil Garhshankar, District Hoshiarpur.

Adumbrated facts of the case are that earlier Lambardar, namely, Sant Singh was removed from the post vide order dated 12.05.2014 and thus, post of Lambardar fell vacant in the village. For filling up the vacancy, process for the appointment of new Lambardar was initiated. Proclamation was made in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, 11 applications were received. Four of the candidates withdrew their name in favour of candidate, namely, Daljit Singh. Candidature of remaining 7 candidates were considered. Tehsildar, Garhshankar recommended the name of Daljit Singh son of Darshan Singh. Thereafter, candidates Balwinder Singh, Bhag

Singh and Bhupinder Singh withdrew their names in favour of Hardish Kaur (petitioner). Candidate Parbodh Kumar did not appear before SDM, Garhshankar and he was proceeded *ex parte* and thus, the SDM heard the remaining 3 candidates and recommended the name of Hardish Kaur. Thereafter, Hardish Kaur, Daljit Singh and Gian Singh appeared before the Collector, however, Gian Singh withdrew his name in favour of Daljit Singh, thus, only two candidates remained in the fray. On the appreciation of merits and demerits of the candidates, namely, Hardish Kaur (petitioner) and Daljit Singh, the Collector did not find them suitable for and thus, remanded the case to the SDM, Garhshankar for calling fresh applications by making fresh proclamation in the village vide order dated 04.06.2015 (Annexure P-1). Aggrieved by the same, the petitioner filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the Commissioner, however, after hearing both the sides, the learned Commissioner dismissed the same vide order dated 18.01.2017 (Annexure P-3). Being aggrieved, the petitioner assailed the same by way of filing a revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner. However, learned Financial Commissioner after hearing both the sides, did not find any perversity in the orders passed by the Collector and the Commissioner and thus, dismissed the revision petition vide order dated 21.12.2017 (Annexure P-5). 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 submits that the petitioner

was 68 years of age and was matriculate by qualification, besides this she was JBT and retired as Senior Assistant from Senior Secondary School, Jhanjowal. He has submitted that the petitioner was non-suited on the ground that she was 68 years of age, which is totally unsustainable in the eyes of law. He submits that the petitioner was most meritorious candidate among all the candidates in fray. He submits that just because of the petitioner was 68 years of age, her candidature was wrongly rejected as has been illegally done by the Collector and which has been further illegally confirmed by both the Appellate and Revisional authorities. It is submitted that remanding the case for fresh proclamation is totally against the law settled as there was no flaw in the earlier proclamation made in pursuance to which the petitioner and other candidates duly applied. He has submitted that the impugned orders being against the evidence on record and the law settled, deserve to be set aside.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that though proclamation was made for inviting applications from the willing candidates, however, only two candidates remained in the fray, who were not found to be suitable and thus, the learned Collector had rightly remanded the case for inviting the fresh applications by making fresh proclamation. He has submitted that in these circumstances, the petition being devoid of any merit deserves to be dismissed.

Heard.

Evidently, proclamation was made for inviting the applications for the post of Lambardar from the willing candidates and in pursuance to the same, 11 applications were received. Out of which only 2 candidates

finally remained in the fray i.e. Hardish Kaur-petitioner and one Daljit Singh. It is apparent from the observations made by the District Collector that case under Section 15(2) of Indian Medical Council Act, 1956 was registered against Daljit Singh. So far the petitioner is concerned, it has been observed that she was 68 years of age and would not be very much fit to discharge the duties of Lambardar. Hence, the case was remanded for inviting fresh applications by making fresh proclamation. The view taken by the Collector was upheld by the learned Appellate and Revisional authorities. All the authorities have given a concurrent finding in remanding the case for fresh proclamation. On considering the overall facts and circumstances of the case, this Court does not find any perversity in the view taken by the authorities below. However, it is apparent that overall merits of the candidates have not been taken into consideration and thus, fresh proclamation was ordered to be made. In the considered opinion of this Court, fresh proclamation be made for inviting the applications afresh from the eligible candidates. However, it is made clear that the petitioner would not be debarred from applying afresh in pursuance to the fresh proclamation to be made for inviting the applications. Thus, the orders passed by the authorities below are maintained to the extent of remanding the case for making fresh proclamation for inviting fresh applications. However, the petitioner would be entitled to apply in pursuance to the proclamation to be made afresh. The Collector, thereafter, would proceed further for the appointment of Lambardar of the village in accordance with law. The Collector is directed to carry out fresh proclamation and appoint Lambardar of the village within a period of three months from the receipt of certified copy of this order.

Present petition stands disposed of in above terms.

08.01.2024			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No