

2024:PHHC:124986



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

CWP-17760-2023 (O&M)
Date of decision : 10.09.2024

PARUPKAR SINGH

...Petitioner

Versus

LD. FINANCIAL COMMISSIONER, PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

Mr. Narinder Singh Diwana, Sr. D.A.G., Punjab.

Mr. J.S. Mundi, Advocate
for respondent No.4.

HARSH BUNGER, J. [ORAL]

Petitioner (Parupkar Singh) has filed the present petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of *certiorari* for setting aside the order dated 17.12.2021 (Annexure P-2) passed by the learned Commissioner, Patiala Division, Patiala (in short 'the Divisional Commissioner'), whereby, he set aside the order dated 18.08.2021 (Annexure P-1) passed by the learned District Collector, Malkerkotla, appointing the petitioner as *lambardar* of Village Jalalgarh, Tehsil Amargarh, District Malkerkotla and appointed respondent No.4 (Babanpreet Singh) as the *lambardar* of Village Jalalgarh.

A further prayer has been made for setting aside the order dated 06.07.2023 (Annexure P-3) passed by the learned Financial Commissioner, Punjab, whereby, the appeal filed by the petitioner against the Commissioner's order dated 17.12.2021 (Annexure P-2) has been dismissed.

2. Briefly, on demise of Sh. Jagjit Singh, previous *Lambardar* of Village Jalalgarh, proceedings were initiated for filling up the afore-said vacancy. In pursuance to the proclamation carried out for filling up the said vacancy, thirteen 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 Learned Assistant Collector IInd Grade (Naib Tehsildar), Amargarh and learned Assistant Collector Ist Grade (Sub Divisional Magistrate), Malerkotla, recommended the name of respondent No.4 for appointment to the afore-said vacancy and the case was forwarded to the learned Collector.

2.2 Learned Collector, Malerkotla, vide order dated 18.08.2021, appointed the petitioner as *lambardar* of Village Jalalgarh.

2.3 Feeling aggrieved against the afore-said order dated 18.08.2021 (Annexure P-1), respondent No.4 preferred an appeal before the learned Divisional Commissioner. Similarly, two more appeals were filed by other candidates namely, Balwinder Singh and Mahima Singh. All the afore-said three appeals came to be decided by the learned Divisional Commissioner, vide common order dated 17.12.2021 (Annexure P-2), whereby, the Collector's order was set aside and respondent No.4- Babanpreet Singh was appointed as *lambardar* of Village Jalalgarh.

2.4 It appears that the present petitioner challenged the Commissioner's order dated 17.12.2021 (Annexure P-2) by filing an appeal before the learned Financial Commissioner, however, the same was dismissed vide order dated 06.07.2023 (Annexure P-3).

2.5 In the afore-mentioned facts and circumstances, the petitioner has filed the present writ petition before this Court.

3. Learned counsel for the petitioner submits that the learned Commissioner has erred in law and fact in setting aside the order passed by the learned District Collector, without appreciating the settled law that in the matter of appointment of *lambardar*, the choice of the Collector is not to be lightly interfered with unless there is any patent illegality or perversity. It is submitted that the learned Commissioner, has failed to consider and appreciate that respondent No.4 does not have clean antecedents as a case FIR No.82 dated 14.06.2021 was registered against him, therefore, he was not a fit candidate to be appointed as *lambardar*. It is further submitted that on an earlier occasion, when respondent No.4 was working as Sarbarah *lambardar*, then an order dated 07.12.2017 was passed by the learned Collector, removing him from the said post. It is further contended that respondent No.4 is a fraudulent person as he had got the property transferred in his name from his sister by showing her as un-married, whereas, she was already married. It is next submitted that the petitioner is more meritorious than respondent No.4 and he was rightly appointed as *lambardar* by the learned Collector, however, the said appointment was wrongly set aside by the learned Commissioner. It is stated that the Commissioner, had no jurisdiction to appoint *lambardar* as the said power vests solely with the District Collector.

3.1 With the afore-said submissions, learned counsel for the petitioner prayed that the impugned orders may be set aside and the order passed by the learned District Collector, be maintained.

4. Per contra, learned counsel appearing for respondent No.4 opposed the submissions made on behalf of the petitioner by submitting that the order passed by the learned Collector was illegal and perverse as the relevant factors for appointment of *lambardar* were not considered by the learned District Collector, accordingly, the learned Divisional Commissioner, set aside the order passed by the learned Collector and appointed respondent No.4 as *lambardar*. It is further submitted that the Appellate Authority as well as the Revisional Authority enjoy the same power in the matter of appointment of *lambardar* as enjoined upon the learned Collector, therefore, there is no jurisdictional error in the impugned orders passed by the learned Commissioner as well as the learned Financial Commissioner. As regards the plea that a case FIR has been registered against respondent No.4, it is submitted that although the said case FIR was registered against him, however, from the enquiry report submitted by the Superintendent of Police, Malerkotla, nothing incriminating was found against respondent No.4 and rather, he was nominated as a complainant of the case. In respect of plea of the petitioner that respondent No.4 had fraudulently got transferred the property from his sister in his own name by reflecting his sister as un-married, it is submitted that no such representation/reflection is forthcoming from the transfer deed, which is attached as Annexure P-7. It is further submitted that respondent No.4 is more meritorious than the petitioner and has been rightly appointed as *lambardar* by the learned Divisional Commissioner and the said appointment has been further affirmed by the learned Financial

Commissioner. It is, accordingly, submitted that there is no scope for any interference in the orders passed by the learned Commissioner as well as the learned Financial Commissioner. Accordingly, prayer for dismissal of the writ petition has been made.

5. Heard.
6. The relative merits of the candidates in the fray (as noticed by the learned Divisional Commissioner), can be summed up as under :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Parupkar Singh)</i>	<i>Resp. No.4 (Babanpreet Singh)</i>
<i>1</i>	<i>Age</i>	<i>43 years</i>	<i>33 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>B.A.</i>	<i>B.Tech.</i>
<i>3</i>	<i>Land holding/s</i>	<i>24 Bighas 4 Biswas</i>	<i>114 Bighas 19 Biswas</i>
<i>4</i>	<i>Recommended by</i>	<i>----</i>	<i>SDM Naib Tehsildar, Malerkotla.</i>

6.1 A bare perusal of the afore-said comparison would leave no manner of doubt that respondent No.4 has an edge over the petitioner inasmuch as respondent No.4 is younger in age and more educated than the petitioner and he also has more land holding than the petitioner. That apart, the name of respondent No.4 was recommended by the lower Revenue Officers.

6.2 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***.

6.3 As regards jurisdiction/competence of appellate authority and revisional authority to appoint Lambardar is concerned, a Division Bench of this Court in ***Tak Ram Versus Financial Commissioner (Revenue), Haryana; 1998 (3) RCR (Civil) 90***, held as under :-

“...The other contention of the learned counsel that the Commissioner or the Financial Commissioner had no jurisdiction to select a Village Headman-cum-Lambardar again cannot be accepted. The appellate or the Revisional Authority has a right to pass the same order that can be passed by the Collector. Thus the selection of Village Headman-cum-Lambardar by the Financial Commissioner cannot be set aside on that ground..”

6.4 As regards the plea of the petitioner that a case FIR No.82 dated 14.06.2021 was registered against respondent No.4; it is noticed that in the enquiry report dated 13.08.2021 (Annexure R-1) submitted by the Superintendent of Police, Malerkotla, respondent No.4 was declared as innocent. The relevant extract of enquiry report reads as under :-

“It reveals from enquiry proceeding that said Sarabjit Kaur attempted to encroach upon the land, coming in possession of Babban Preet Singh and then, she herself falsely got registered said F.I.R. No.82 dated 14.6.2021 u/s 447, 511, 506, 427 IPC – Police Station Amargarh against Babban Preet Singh etc. An enquiry report in this matter is drafted, which is submitted

before the Senior Superintendent of Police, Malerkotla. An order No.167/P dated 20.8.2021 has been passed by the Senior Superintendent of Police, Malerkotla to the effect that from the contents of said application, enquiry report and evidence brought on case file, Babban Preet Singh @ Simranjot Singh son of late Surinder Singh, Happy Singh son of Dalip Singh, residents of village Jalalgarh & 10-12 unknown persons are hereby declared innocent. Babban Preet Singh @ Simranjot Singh son of late Surinder Singh is nominated as complainant of case & Sarabjit Kaur wife of Balwinder Singh, Balwinder Singh son of Jagjit Singh, Happy Singh son of Baljit Singh, Harjit Singh son of Ramji Singh, Nirbhai Singh son of Ramji Singh, residents of village Jalalgarh, Gurpreet Singh, resident of Village Birdhan and 8-10 unidentified persons are nominated as accused. Offence u/s 447, 511, 506, 427 IPC is reduced against said Babban Preet Singh and offence punishable u/s 447, 511, 427 IPC is increased against accused Sarabjit Kaur etc.”

7.1 A perusal of the above-extracted enquiry report would clearly suggest that respondent No.4 is not only declared innocent but he has also been nominated as a complainant in the said case. Therefore, there is no substance in the plea of the petitioner that respondent No.4 does not have clean antecedents.

7.2 As regards the contention of the petitioner that respondent No.4 was removed from the post of Sarbarah Lambardar by the learned Collector, vide order dated 07.12.2017 (Annexure P-5), it is observed that respondent No.4 was working as Sarbarah Lambardar in place of his grandfather and on his complaint (Jagjit Singh), the Collector passed the order cancelling the appointment of respondent No.4 as Sarbarah Lambardar, with a clear finding that said Jagjit Singh (grand-father of

respondent No.4) has given a wrong complaint and the same was not corroborative with the facts on the file. Accordingly, the aforesaid plea of the petitioner is also without any merit and is rejected.

7.3 Further, I also do not find any substance in the plea of the petitioner that respondent No.4 got transferred the property from his sister in his own name by depicting his sister as un-married, whereas, she was already married. I have gone through Annexure P-7, which is an extract of the transfer deed; however, no such reflection is forthcoming from said document. In fact, the transfer deed has been executed by Jaspreet Kaur D/o Surinder Singh, through her General Power of Attorney, namely, Sh. Jagdev Singh, in favour of respondent No.4. The petitioner is wrongly trying to drawn inference from the mere fact that Jaspreet Kaur is shown as daughter of Surinder Singh and the name of her husband is not reflected herein. In my considered view, no inference can be drawn on the basis of such recital in the transfer deed to conclude that any fraud has been played by respondent No.4.

8. No other argument was raised.

9. Considering the totality of circumstances, I find no merit in the present writ petition and the same is, accordingly, dismissed.

10. All pending application/s, if any, shall also stand closed.

September 10, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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