

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

CWP-22033-2022

Date of Decision: 20.01.2024

Tejinder Singh

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Deepak Verma, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

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

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 28.03.2022 (Annexure P-5) passed by learned Financial Commissioner (Appeals), Punjab-respondent No.2, whereby the concurrent findings of the competent and appellate authorities regarding appointment of the petitioner as Lambardar of village Chandeli, Tehsil Garhshankar, District Hoshiarpur, Punjab, has wrongly been set aside and respondent No.5 has been appointed as Lambardar.

Adumbrated facts of the case are that on account of death of Shingara Singh, earlier Lambardar of the village Chandeli, Tehsil Garhshankar, District Hoshiarpur on 18.12.2009, 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 and eligible candidates. In pursuance to the same, four applications from the candidates, namely, Tejinder Singh (petitioner), Shingara Singh, Rattan Singh and Salinder Singh (respondent No.5) received. On consideration of their inter-se merits and de-merits, Tehsildar,

Grahshankar recommended the name of Tejinder Singh (petitioner) for appointment of Lambardar to the SDM, Garhshankar. Learned SDM, Garhshankar agreeing with the report of the Tehsildar, Garhshankar, recommended the name of the petitioner for the appointment of Lambardar to the Collector. Candidate Tejinder Singh, Salinder Singh and Rattan Singh appeared before the learned Collector and Rattan Singh withdrew his application in favour of Salinder Singh. Thus, Tejinder Singh (petitioner) and Salinder Singh (respondent No.5) finally remained in fray. On appreciation of the inter-se merits of both the candidates i.e. the petitioner and respondent No.5, it was found as follows:-

Name of the candidate	Salinder Singh (respondent No.5)	Tejinder Singh (petitioner)
Land holding in village	04 Acres, 01 Kanal & 17 marlas of land and 10 acres of land in the name of his wife and children	3 acres, 06 kanals and 18 marlas
Profession	Ex-serviceman (retired from Army)	Agriculturist
Education	8th	Matriculate
Donation	-	Donated Rs.5,000/- to Guru Nanak Anath Ashram
Age	60 years	44 years
Any other details	(a) Received medals for good service and gallantry (b) Candidate Rattan Singh withdrew candidature in favour of Salinder Singh	(a) son of deceased Lambardar (b)Chairman of Rural Education Development Committee of Government Elementary School Education, Chandeli (c) After the death of his father, he collected Chowkidara on behalf of his father. (d) Gram Panchayat village Chandeli passed a resolution in his favour.

Learned Collector on evaluation of the inter-se merits and demerits of both the candidates, finding the petitioner to be more meritorious candidate appointed him as Lambardar of the village vide order

dated 23.08.2011 (Annexure P-1). Aggrieved by the same, respondent No.5 filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the Commissioner, Jalandhar Division, Jalandhar. Learned Divisional Commissioner after hearing both the sides found no perversity in the order passed by the Collector and thus, appeal being devoid of any merit was dismissed vide order dated 10.12.2013 (Annexure P-3). Again aggrieved by the same, respondent No.5 filed revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, who heard both the sides and re-appreciated the record. However, learned Financial Commissioner found the orders passed by the Collector and the Commissioner to be perverse and thus, set aside both these orders by accepting the revision filed by respondent No.5 vide order dated 28.03.2022 (Annexure P-5) and appointed him as Lambardar of the village. 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 the comparison of the inter-se merits of both the petitioner and respondent No.5, it is apparent that the petitioner was younger in age than respondent No.5 and was more qualified as well than respondent No.5. He submits that the petitioner actively participated in the affairs of the village, he remained Chairman of Rural Education Development Committee of Government Elementary School, Chnadeli and he donated towards common cause of the residents of the village. It is submitted that the petitioner being son of deceased Lambardar had experience of discharging duties as Lambardar as well. It is submitted that the Collector appointed the petitioner keeping in view the overall merits of the petitioner and by no stretch of

imagination, appointment of the petitioner can be said to have been made on the ground of hereditary claim. He submits that the well reasoned order passed by the Collector was duly upheld by the Commissioner as well. It is submitted that the learned Financial Commissioner, however, has totally failed to appreciate the evidence on record and the law settled. The learned Financial Commissioner has set aside both the well reasoned orders passed by the Collector and the Commissioner on the ground that appointment of the petitioner as Lambardar has been made on the ground of hereditary claim. He submits that findings arrived at by the learned Financial Commissioner are totally based on misreading of the facts of the case. It is submitted that though respondent No.5 was an ex-serviceman, however, he was much elder than the petitioner and less educated as well. It is submitted that as per the law settled, the order passed by the Collector cannot be interfered with unless the same suffers from any material illegality or perversity, however, there being no perversity in the order passed by the Collector, which was duly upheld by the Commissioner, the view taken by the Financial Commissioner is totally against the law settled and thus, 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 respondent No.5 had served in Army for 17 years and thus, as per mandate of Rule 15 of the Punjab Land Revenue Rules, he was most deserving candidate for the appointment of the Lambardar as he rendered service to the nation. It is submitted by him that the orders passed by the Collector and the Commissioner being perverse, were rightly set aside by the learned Financial Commissioner. He further submits that the present

petition being devoid of any merit deserves to be dismissed.

After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was younger in age and more educated than respondent No.5. On perusal of order passed by the Collector, it is evident that the learned Collector has appreciated the merits and demerits of both the candidates in detail. Though one of the grounds taken into consideration was that the petitioner was the son of the deceased Lambardar, however, appointment of the petitioner was not made solely on this ground. The petitioner was found to be more meritorious in the overall consideration of the merits. Respondent No.5 though was an ex-serviceman, however, he was not found to be the most meritorious and suitable candidate in comparison to the petitioner. As per law settled by the Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757 for the appointment of Lambardar, age of the candidate is a relevant factor.

In **Sukhjinder Pal Singh Vs. State of Punjab and others**, 2016(3) R.C.R. (Civil) 725, this Court while dealing with the same question has held as under:-

“14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.”

As per law settled, the 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. Thus, the subjective satisfaction of the Collector cannot be

ignored in a cavalier manner.

In view the above, the findings arrived at by the learned Financial Commissioner are totally violative of the law settled and thus, being unsustainable in the eyes of law are set aside and the orders appointing the petitioner as Lambardar passed by Collector and affirmed by the Commissioners, are upheld.

Hence, the present petition is allowed in above mentioned terms

20.01.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No