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

CWP-373-2018

Date of decision : 29.01.2024

Karnail Singh**.....Petitioner**

versus

State of Punjab and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

Mr. J.K. Singla, Advocate
for respondent No.5.

None for respondents No.6 and 7.

*********RAJESH BHARDWAJ, J.**

Prayer in the present petition is for quashing the order dated 22.11.2017 (Annexure P-5) passed by respondent No.2 whereby revision of the petitioner has been dismissed, by upholding the order dated 29.07.2015 (Annexure P-3) passed by learned Commissioner, Faridkot, Division Faridkot and quashing of order dated 29.07.2015 passed by learned Commissioner Faridkot, Division Faridkot whereby appeal of respondent No.5 has been allowed by setting aside the well reasoned and detailed order dated 02.12.2013 (Annexure P-1) passed by learned Deputy Commissioner, Mansa and the matter has been remanded to Deputy Commissioner for fresh decision.

Adumbrated facts of the case that on the death of earlier Lambardar namely, Kaur Singh on 23.06.2012, the post of Lambardar fell vacant and thus, the process for the appointment of new Lambardar was initiated. The *mustri munadi* was conducted in the Village for inviting the applications from the interested eligible candidates. In pursuance to the same, applications were received from candidates including that from the petitioner and respondent No.5. Thereafter, three candidates withdrew their applications and character verification of remaining four candidates was conducted. On perusal of their applications, *inter se* merits of all the candidates were found as follows:-

Sr No	Name of Candidate	Age	Educational Qualification	Landed Property K-M	Police Report	Experience	Heridat-ory Claim
1	Mander Singh son of Kaur Singh	50-52	Illiterate	10-10	Convicted in FIR No.52 dated 15.09.1993 under Section 61 of Exercise of the Act. 2. for wrongly attesting Vasika No.4764 dated 27.12.06 regarding the pedigree table due to which the parties had to execute Tatima Registry No.4977 dated 09.01.2007	Remained Sarbara of his Father	Son of deceased Lambar-dar

Sr No	Name of Candidate	Age	Educational Qualification	Landed Property K-M	Police Report	Experience	Hereditary Claim
2	Karnail Singh son of Sher Singh	68	8 th Passed in Civil Side and 10 th passed in defence side	43	Good conduct	Ex-serviceman and Ex. Sarpanch	
3	Satpal Singh son of Chand Singh	52	Matric	8-10	Good conduct		
4	Jagmohan Singh son of Surjit Singh	25	8 th pass	4.0	Good conduct		Nephew of deceased Lambardar

On comparison of the *inter se* merits of all the candidates, the Assistant Collector recommended the name of petitioner to be appointed as Lambardar of the Village to the Collector. Learned Collector on evaluation of the merits and demerits of all the candidates found the petitioner to be the most meritorious candidate and thus, appointed him as a Lambardar of the Village vide his order dated 02.12.2023. Being aggrieved, respondent No.5 filed the appeal assailing the order passed by the Collector before the learned Commissioner. Other two unsuccessful candidates namely, Satpal Singh and Mander Singh also filed their separate appeal before the Commissioner challenging the order of Collector vide which petitioner was appointed as Lambardar. Learned Commissioner took up and decided both the appeals together vide order dated 29.07.2015 and *set aside* the order dated 02.12.2023 passed by the Collector and thus, learned Commissioner on hearing both the sides accepted the appeal by setting aside the order passed by the Collector and thus, remanded the case to the Collector for deciding it afresh. Being aggrieved, the petitioner assailed the same by way of filing the revision

petition under Section 16 of the Punjab Land Revenue Act, 1887 before the Financial Commissioner, Punjab. However, on hearing both the sides, learned Financial Commissioner vide order dated 22.11.2017 upheld the remand order passed by the Commissioner. Thus, aggrieved by the same, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that on comparison of the *inter se* merits of all the candidates in the fray, petitioner was found to be most meritorious and thus, the Collector has appointed him as Lambardar of the Village. He submits that petitioner was 68 years of age and 8th pass by qualification. Besides this, he owned 43 kanals of land. He submits that the petitioner is an Ex-serviceman and he remained as Sarpanch of the village as well. It is submitted by him that respondent No.5 is a young man of 25 years of age and he has no experience to his credit. He submits that as per the mandate of Rule 15, petitioner was found to be most suitable candidate and thus, was appointed as Lambardar of the Village. It is submitted that there is no proof regarding the allegations of misappropriation of the public funds while the petitioner remained Sarpanch of the Village and thus, the same has no value in the eyes of law. He submits that the Appellate and Revisional Court have failed to appreciate the same and thus, have illegally *set aside* the order passed by the Collector. It is further submitted that as per the law settled, order passed by the Collector can be interfered only if it suffers from any perversity. However, as there was no perversity in the order passed by the Collector thus, the impugned orders passed by the Appellate and Revisional Court deserve to be *set aside*.

Per contra, learned counsel for respondent No.5 has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was 68 years of age whereas respondent No.5 was 25 years of age. He submits that as per the law settled, candidate younger in age deserves to be preferred. He submits that there were allegations of misappropriation of the public funds by the petitioner at the time when he remained as Sarpanch of the Village. He submits that learned Financial Commissioner has made the observations that petitioner during his tenure as Sarpanch had misappropriated the Government Development Funds and accordingly, the BDPO, Mansa had passed the order dated 22.04.2013 for recovery of Rs.13,050/- against him . He submits that thus, the Collector has made the appointment without taking into consideration the serious allegations against the petitioner and thus, the orders passed by the learned Commissioner and Financial Commissioner, remanding the case for decision afresh suffer from no illegality and thus, the petition being devoid of any merits, deserves to be dismissed.

Despite service, respondents No.6 and 7 did not appear before this Court.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that on evaluation of the *inter se* merits of all the candidates, petitioner was appointed as a Lambardar of the Village by the Collector vide order dated 02.12.2013. However, learned Commissioner *set aside* the same while accepting the appeals filed by respondent No.5 and also by respondents No.6 and 7. This order was further upheld by learned Financial Commissioner in the revision filed by the petitioner. It is apparent from perusal of the impugned orders that the allegations of

misappropriation of public funds were found to be substantiated against the petitioner while he remained as Sarpanch of the Village. The perusal of the order passed by the Collector would show that these allegations have not been dealt with and thus, the impugned orders were passed by Commissioner and Financial Commissioner for deciding the case afresh. In the considered opinion of this Court, the impugned orders suffer from no infirmity. The case deserve to be decided by the Collector taking into consideration overall merits and demerits of all the candidates afresh.

This Court finds that the view taken by the Commissioner and that by learned Financial Commissioner cannot be said to be suffering from any infirmity and hence, both the orders passed by the authorities below are upheld. Resultantly, the case is remanded to the Collector for decision afresh in accordance with law. However, keeping in view the overall facts and circumstances of the case, the Collector is directed to decide the case after hearing all the candidates in fray within two months from the date of receipt of copy of this order. Office is directed to send copy of this order to the Collector concerned forthwith who on receipt of the same will issue notice for appearance, to all the parties.

Petition is disposed of in above-mentioned terms.

29.01.2024
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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