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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4793-2018 (O/M)

Date of decision : 30.09.2024

Raghbir Singh

..... Petitioner

Versus

Financial Commissioner, Revenue, Punjab and anr.

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. H.R. Brinda, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

Mr. Beant Singh Seemar, Advocate
for respondent No. 2.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Raghbir Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 14.10.2014 (Annexure P-7), passed by learned District Collector, SBS Nagar (in short 'Collector') whereby respondent No. 2 (Dilbhag Singh) was appointed as Lambardar of village Barnala Kalan, Tehsil and District Shaheed Bhagat Singh Nagar (in short 'SBS Nagar').

1.1 A further prayer has been made by the petitioner for setting aside the order dated 06.06.2017 (Annexure P-9), passed by the learned Commissioner, Rupnagar Division, Rupnagar (in short 'Divisional Commissioner') and also the order dated 04.10.2017 (Annexure P-11), passed by the learned Financial Commissioner, Revenue, Punjab (in

short 'Financial Commissioner'), whereby the appeal and revision petition filed by the petitioner were dismissed, respectively.

2. Briefly, upon removal of Shri Tarsem Singh from the post of Lambardar of village Barnala Kalan, proceedings were initiated for filling up the vacancy. In pursuance to the proclamation (mustri munadi) calling upon the applications for filling up the said vacancy, six applications (including the one submitted by the petitioner and also respondent No. 2-Dilbhag Singh), were received.

2.1 The learned Tehsildar, SBS Nagar as well as learned Sub Divisional Magistrate, SBS Nagar recommended the candidature of respondent No. 2-Dilbhag Singh for appointment to the aforesaid vacancy.

2.2 The learned Collector, vide order dated 14.10.2014 (Annexure P-7), appointed respondent No. 2 as Lambardar of village Barnala Kalan.

2.3 It transpires that the petitioner challenged the order dated 14.10.2014 (Annexure P-7) by filing an appeal before the learned Divisional Commissioner, which was dismissed, vide order dated 06.06.2017 (Annexure P-9).

2.4 A further revision petition (ROR-684-2017) filed by the petitioner before the learned Financial Commissioner (Revenue), Punjab, was also dismissed, vide order dated 04.10.2017 (Annexure P-11).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. Learned counsel for petitioner submits that the learned revenue authorities below have erred in law and facts in appointing

that respondent No. 2 is running a photostat shop and is not regularly available to the villagers, which is a relevant consideration in the matter of appointment of Lambardar. It is further submitted that the petitioner is more meritorious than respondent No. 2 as he has more land holding and is socially active and associated with eye donation association and is also a Vice President of Barnala Kalan Multipurpose Cooperative Agriculture Society Limited. It is, therefore, submitted that the impugned orders are patently illegal and perverse, accordingly, the same be set aside and the petitioner be appointed as Lambardar of village Barnala Kalan.

5. Per contra, learned counsel for respondent No. 2-Dilbhag Singh has opposed the submissions made on behalf of petitioner by submitting that the learned Collector has appointed respondent No. 2 as Lambardar after considering the relative merits and demerits of the candidates and the Collector's order has been further upheld by the learned Divisional Commissioner as well as the learned Financial Commissioner; which do not call for interference by this Court. It is submitted that respondent No. 2 is more meritorious than the petitioner inasmuch as the name of respondent No. 2 was recommended by the Tehsildar as well as Sub Divisional Magistrate, SBS Nagar, which is a very relevant factor. It is further submitted that respondent No. 2 is younger in age and more educated than the petitioner and respondent No. 2 has sufficient land holding in his name. It is contended that as per the well settled law, in the matter of appointment of Lambardar, the choice of Collector is to be respected and is not to be lightly interfered with, even if two views are possible. As regards the plea of the petitioner that respondent No. 2 is running a photostat shop and is not readily

indicated in his application for the post of Lambardar that he was running a photostat shop by employing a servant, therefore, there is no merit in the submission that respondent No. 2 is not readily available to the villagers. With the aforesaid submissions, learned counsel for respondent No. 2 has prayed for dismissal of the instant civil writ petition.

6. I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.

7. In the present case, respondent No. 2 was appointed as Lambardar of village Barnala Kalan by learned Collector, vide order dated 14.10.2014 (Annexure P-7) by observing as under :-

“ Sh. Raghubir Singh son of Sh. Bhag Mal during argument submitted that he is permanent resident of village Barnala Kalan. His age is 50 years and is agriculturist in village. He has studied upto 6th standard and can read and write Punjabi. His holding in village is 4 acre, in addition to it he has donated a Maruti Van to eye donation association Nawanshahar and he remained Vice President of the Barnala Kalan Multipurpose Agricultural Society Ltd.

Sh. Dilbhag Singh son of Sh. Gurmit Singh during argument submitted that his age is 48 years and is agriculturist in village. He is matric pass and can read and write English, Punjabi and Hindi. He is having 1 acre land in the village.

After hearing the candidates and going through the record on file I came to the conclusion that Sh. Dilbhag Singh son of Sh. Gurmit Singh resident of village Barnala Kalan Nawanshahar, Distt. Shaheed Bhagat Singh Nagar is competent candidate for the post of Lambardar because Sh. Bahadur Singh son of Sh. Karam Singh has withdrawn his application in favour of Sh. Dilbhag Singh son of Sh. Karam Singh and in addition to it other candidates had

also withdrawn their application in his favour in the court of Tehsildar and Sub Divisional Magistrate, Nawanshahar. From it, it appears that behaviour of Sh. Dilbhag Singh son of Gurmit Singh is good with other people in the village and most of the people are in favour of his appointment as Lambardar of the village. In addition to it age of Sh. Dilbhag Singh son of Sh. Gurmit Singh is less than the age of Sh. Raghubir Singh son of Sh. Bhag Mal, though holding of Sh. Dilbhag Singh son of Sh. Gurmit Singh is less that of Sh. Raghubir Singh son of Sh. Bhag Mal, but the education qualification of Sh. Dilbhag Singh son of Gurmit Singh is more that of Sh. Raghubir Singh son of Bhag Mal and he is more intelligent. Tehsildar and Sub Divisional Officer Nawanshahar has also given their recommendation in favour of Sh. Dilbhag Singh son of Sh. Gurmit Singh. So, agreeing with the report of Tehsildar Nawanshahar and Sub Divisional Officer Nawanshahar I appoint Sh. Dilbhag Singh son of Sh. Gurmit Singh, Lambardar of village Barnala Kalan in place of dismissed Lambardar Sh. Tarsem Singh. Appointed Lambardar is directed to move his application for Sanad Lambardari after period of limitation for appeal. Misc1 after compliance be consigned to record room.”

7.1 From the above extracted order passed by learned Collector, the relative merits of the candidates, can be summed up as under :-

Particulars	Petitioner (Raghbir Singh)	Respondent No. 2 (Dilbhag Singh)
Age	50	48
Educational qualification	6th pass	10th class pass
Land holdings	4 Acres	1 Acre
Recommended by	---	Tehsildar and SDM, SBS Nagar
Social Work (s) etc.	Donated Maruti Van to Eye Donation Association, Nawanshahr. Remained Vice President of Barnala Kalan Multipurpose Cooperative Agriculture Society Ltd.	---

7.2 From a bare perusal of the above extracted comparison, it is noticed that respondent No. 2 is younger in age and more educated than the petitioner. Further, the name of respondent No. 2 was recommended by lower revenue officials. It is well settled that the Collector is not bound by such recommendation(s); 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 Versus Financial Commissioner (Revenue), Punjab***, 2016(4) RCR (Civil) 335 and ***Atma Singh Versus The Financial Commissioner, Revenue, Punjab***, 2016(1) LAR 592.

7.3 As far as land holding is concerned, although, petitioner owns more land than respondent No. 2; however, it is observed that holding of land is taken into consideration only for the purpose of security towards government revenue collected by the Lambardar. Respondent No. 2 has about 1 acre of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the Lambardar. Moreover, in case of ***Gurpreet Singh versus Financial Commissioner (Revenue), Punjab, 2017(1) RCR (Civil) 233***, this Court has observed that land revenue stood abolished in both the State of Punjab and Haryana, long back, thus owning land by the candidates for the post of Lambardar would not be of much significance any further.

7.4 As regards the submission of the petitioner that respondent No. 2 runs a photostat shop and is not readily available to the villagers, it is observed that respondent No. 2 had clearly indicated in his application

employing a servant therefore, presence of the respondent No. 2 at the photostat shop regularly is not required. Merely because, Lambardar is running a photostat shop near to the village, the same cannot be a basis to create doubt that in future he would not be available in the village to discharge duties of Lambardar.

7.5 In somewhat similar circumstances, this Court in ***Amarjit Kaur v. Financial Commissioner (Co-operation), Punjab, 2011(3) RCR (Civil) 961***; held as under:-

“3. The only question involved in the present petition is, as to whether a Lambardar is expected to be unemployed or merely engaged in agricultural activities?”

4. In the opinion of this Court, Lambardar cannot be expected to be an unemployed or merely engaged in agricultural activities. Merely because petitioner is running a school at Talwara, would not mean that she will not be available in the village to perform duties of Lambardar. Petitioner has given sufficient explanation that she has engaged several teachers and staff in the school to look after the management, other jobs and teaching activities, therefore, presence of the petitioner in the school regularly is not required, which was wrongly disbelieved by the learned Commissioner. Merely because, Lambardar is running a school in the nearby city, cannot be a basis to create doubt that in future she would not be available in the village to discharge duties of Lambardar.

5. In the opinion of this Court if other qualities or qualifications of the candidate are appealing and he is permanent resident of the village and ordinarily residing in the same village, his candidature should not be refused solely on the ground he is engaged in some

commercial activities near the village to earn his livelihood...”

7.6 Furthermore, in the case of ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273***; it was held by the Division Bench of this Court that the choice of the District Collector cannot be lightly set aside, even if two views are possible, unless there is any patent illegality or perversity therein. In the present case, the learned Collector's order has been further upheld by appellate as well as revisional authority.

8. Upon considering the totality of circumstances in the light of law settled, I do not find any perversity in the impugned order(s). All the revenue authorities i.e. the Collector, the Divisional Commissioner and the Financial Commissioner have taken a concurrent view in favour of respondent No. 2, which are duly supported by sound reasons, therefore the same deserve to be upheld.

9. In this view of the matter, I do not find any merit in this writ petition and the same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

30.09.2024
sjks

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