

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

CWP-5922-2018

Date of Decision: 10.04.2024

Lachhman Ram

..... Petitioner

Versus

Financial Commissioner Revenue and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. Rajeev K.Takkar, DAG, Punjab.

Mr.Vikas Mehsempuri, Advocate, for respondent No.4.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for setting aside the order dated 19.02.2018 (Annexure P-5) passed by respondent No.1 in ROR No.874 of 2016 and order dated 04.10.2016 (Annexure P-4) passed by respondent No.2 vide which well reasoned and speaking order dated 27.05.2015 (Annexure P-3) passed by respondent No.3 appointing the petitioners as Lambardar of village Khanewal, Tehsil Patran, District Patiala, has been wrongly set aside and respondent No.4 has been appointed as Lambardar of the village in violation to the settled proposition of law laid down by this Court in case of Daya Ram vs. Bhagwan and others.

2. This is the second round of litigation regarding appointment of SC Lambardar of village Khanewal, Tehsil Patran, District Patiala between the petitioner and respondent No.4.

3. As emanated from the facts of the case, on account of death of Lal Singh, earlier SC Lambardar of village Khanewal, Tehsil Patran, District Patiala, post of Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. Proclamation was conducted

in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, Lachhman Ram (petitioner) and Beera Ram (respondent No.4) alongwith the other candidates applied for the same. Learned Collector on finding the petitioner to be meritorious appointed him as Lambardar of the village vide order dated 18.09.2013 (Annexure P-1). However, being aggrieved respondent No.4 alongwith co-applicant Gurjant Singh assailed the same by way of their independent appeals before the Divisional Commissioner, Patiala Division, Patiala. Learned Divisional Commissioner after hearing both the appeals together, rejected the appeal filed by co-appellant Gurjant Singh, however, accepted the appeal filed by respondent No.4 and thus, remanded the case to the District Collector for decision afresh vide his order dated 12.03.2014 (Annexure P-2). On remand learned Collector evaluated the inter-se merits of the candidates afresh, however, he again found the petitioner to be more meritorious and thus, appointed him as Lambardar of the village vide order dated 27.05.2015 (Annexure P-3). Being aggrieved respondent No.4 and co-appellant Gurjant Singh assailed the same by way of their independent appeals before the Divisional Commissioner, Patiala Division, Patiala. Both the appeals were heard together. After hearing all the sides, learned Commissioner rejected the appeal filed by Gurjant Singh, whereas, accepted the appeal filed by respondent No.4-Beera Singh by appointing him as Lambardar of the village vide order dated 04.10.2016 (Annexure P-4). Aggrieved by the same, the petitioner filed a 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, finding no perversity in the order passed by the Commissioner, dismissed the revision

vide order dated 19.02.2018 (Annexure P-5). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

4. Learned counsel for the petitioner has vehemently contented that on comparison of the inter-se merits of the candidates, the petitioner was found to be 48 years of age and 5th class pass by qualification. Besides this, he was the son of deceased Lambardar. He submits that the revenue authorities had rather recommended the name of the petitioner for his appointment as Lambardar of the village. He has submitted that finding the petitioner to be meritorious, the petitioner was appointed Lambardar of the village by the Collector in the first round as well as in the second round of litigation. He submits that learned Commissioner has illegally accepted the appeal filed by respondent No.4, which is contrary to the law settled. He submits that appointment of Lambardar is prerogative of the Collector and the order passed by the Collector cannot be interfered unless the same suffers from any perversity, however, there being no perversity, learned Commissioner has illegally set aside the same. He submits that learned Financial Commissioner has equally fallen in error in upholding the same. He relies upon the judgment of this Court in Jagdish Singh vs. State of Punjab and others, 2014(36) RCR (Civil) 157. He further submits that the impugned orders being unsustainable in the eyes of law, deserve to be set aside.

5. Learned counsel for respondent No.4 has vehemently opposed the submissions made by learned counsel for the petitioner. He has submitted that on bare perusal of the merits of both the candidates, it is apparent that respondent No.4 was 40 years of age and 10 class pass and thus, he was younger than the petitioner and more qualified than him. He

submits that learned Collector appointed the petitioner giving him the benefit of hereditary claim, which has been held to be unconstitutional. He submits that as per settled law, the candidate younger in age should get the preference for the appointment of Lambardar. Hon'ble Supreme Court in **Mahavir Singh vs. Khiali Ram and others**, 2009(1) RCR (Civil) 757 has held that for the appointment of Lambardar, age of the candidate is a relevant factor. He submits that thus, it is evident that the order passed by the Collector was found to be perverse, so learned Commissioner had rightly set aside the same, which was duly upheld by learned Financial Commissioner as well. He submits that respondent No.4 is working as Lambardar of the village since the date of his appointment. He submits that the impugned orders suffer from no infirmity whatsoever and thus, the present petition being devoid of any merit deserves to be dismissed.

6. The Court has heard counsel for the parties and perused the record with their able assistance.

7. Admittedly, this is the second round of litigation between the parties. On the evaluation of the merits of both the candidates i.e. the petitioner and respondent No.4, learned Collector appointed the petitioner as Lambardar of the village in the first round of litigation, however, in the appeal filed by respondent No.4, the case was remanded to the Collector for decision afresh. On remand, learned Collector again appointed the petitioner as Lambardar of the village. On comparison of the inter-se merits of both these candidates, it is evident that respondent No.4 was younger in age and more qualified than the petitioner. There was nothing adverse against respondent No.4, however, learned Collector had taken into consideration the hereditary claim of the petitioner and thus, appointed him as Lambardar

of the village. Finding this order to be perverse, learned Commissioner set aside the same by appointing respondent No.4 as Lambardar of the village, which is upheld by the Financial Commissioner. There is no gainsaying that as per law settled, appointment of the Lambardar is prerogative of the Collector. The Appellate and Revisional Authorities can interfere in the same only in the situation when the same is found to be perverse.

8. There is no dispute regarding the judgment relied upon by learned counsel for the petitioner, however, in the facts and circumstances of the case, the same is distinguishable.

9. This Court finds that learned Commissioner was right to the extent of exercising his jurisdiction in setting aside the order passed by the Collector, however, he not only set aside the order passed by the Collector, but appointed respondent No.4 as Lambardar of the village. Thus, this Court is of the considered opinion that both the Appellate and Revisional authorities have fallen in error in appointing respondent No.4 as Lambardar of the village after setting aside the order passed by the Collector. Thus, both these orders dated 19.02.2018 and order dated 04.10.2016 are set aside to the extent of appointing respondent No.4 as Lambardar of the village and the order stands modified by remanding the case to the Collector for passing the order afresh after taking into consideration the merits and demerits of both the candidates.

10. The Collector is directed to evaluate the merits and demerits of the both the candidates afresh in the light of the law settled. Fresh order would be passed after hearing both the sides expeditiously preferably within three months from the date of receipt of copy of this order.

11. It is being clarified that as submitted before this Court,

respondent No.4 is already working as Lambardar of the village and thus, he would continue to work as Lambardar of the village till the fresh order is passed by the Collector in accordance with law.

12. Registry is directed to send a copy of this order to the Collector concerned, who on receipt of the same would issue notice to the parties for appearance and proceed with the matter in accordance with law.

13. The present petition stands disposed of in abovesaid terms.

10.04.2024
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No