

2024:PHHC:114402



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

CWP-20832-2024 (O&M)
Date of decision : 27.08.2024

SATNAM SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vishal Sharma, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

HARSH BUNGER, J. (ORAL)

Prayer in the present petition filed under Articles 226/227 of the Constitution of India, is, *inter alia*, for issuance of a writ in the nature of *certiorari* for setting aside the order dated 22.09.2022 (Annexure P-4) passed by the learned Financial Commissioner, Punjab (here-in-after referred to as 'the learned Financial Commissioner'); whereby he has set aside the order dated 27.04.2018 (Annexure P-2) passed by learned Commissioner, Roopnagar Division, Roopnagar (here-in-after referred as 'the Divisional Commissioner') and upheld the order dated 31.08.2010 (Annexure P-1) passed by learned Collector, Shaheed Bhagat Singh Nagar (here-in-after referred to as 'the Collector').

A further prayer has been made by the petitioner for setting aside the order dated 31.08.2010 (Annexure P-1), whereby respondent No.4

(Balwant Singh) was appointed as the *Lambardar* of Village Ladian, Tehsil Banga, District ShaheedBhagat Singh Nagar.

2. Briefly, on account of demise of Sh. Nathan Lal, previous *Lambardar* of Village Ladian; proceedings were initiated for filling up the said vacancy. In pursuance to the proclamation carried out for filling up the afore-said vacancy, ten applications (including the one submitted by the petitioner and another by respondent No.4) were received.

2.1 The learned Sub Divisional Magistrate, recommended the name of respondent No.4 (Balwant Singh) for appointment to the afore-said vacancy and forwarded the case to the learned Collector. It appears that before the learned Collector, the petitioner (Satnam Singh) along with another candidate namely, Narinder Singh, submitted their applications complaining that they were not afforded any opportunity by the Sub Divisional Magistrate, accordingly, the learned Collector, directed the candidates to appear before the Sub Divisional Magistrate, for rehearing.

2.2 It transpires that thereafter, the Sub Divisional Magistrate, vide his report dated 12.04.2010 stated that none of the three candidates i.e. the petitioner (Satnam Singh), respondent No.4 (Balwant Singh) and Narinder Singh were eligible to become *Lambardar* and on that basis, the case was again sent to NaibTehsildar, Banga for proclamation (*mustrimunadi*).

2.3 It further transpires that respondent No.4 approached the Court of learned Divisional Commissioner, who vide his order dated 02.06.2010 sent the case to the learned Collector to consider the eligibility of the candidates and for passing a speaking order.

2.4 The learned Collector, vide his order dated 31.08.2010 (Annexure P-1) appointed respondent No.4 as the *Lambardar* of Village Ladian.

2.5 The afore-said order dated 31.08.2010 (Annexure P-1) was challenged by the petitioner (Satnam Singh) as well as by Narinder Singh, by way of filing their separate appeals before the learned Divisional Commissioner.

2.6 Both the afore-said appeals came to be decided by the learned Divisional Commissioner, vide common order dated 27.04.2018 (Annexure P-2), whereby the matter was remanded to the learned Collector with the direction to decide the case after hearing all the parties.

2.7 Feeling aggrieved against the afore-said order dated 27.04.2018 (Annexure P-2), the respondent No.4 preferred two Revision Petitions (ROR No.425 of 2018 and ROR No.426 of 2018) before the learned Financial Commissioner.

2.8 Both the afore-said Revision Petitions came to be allowed by the learned Financial Commissioner, vide common order dated 22.09.2022 (Annexure P-4), whereby the Commissioner's order dated 27.04.2018 was set aside and the Collector's order dated 31.08.2010 (Annexure P-1) was upheld.

3. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court, for the relief/s, as noticed here-in-above.

4. Learned counsel for the petitioner submits that the learned Collector as well as the learned Financial Commissioner, have erred in law and fact in passing the impugned order, without considering the merits of the petitioner. It is submitted that the petitioner is younger in age, has studied upto matric and has sufficient land holding/s, therefore, he should have been appointed on the post of *Lambardar*. It is contended that the learned Collector, had wrongly ignored the petitioner's merits while

appointing respondent No.4 as the *Lambardar*. It is further submitted that respondent No.4 is in illegal possession of panchayat land, therefore, he is not suitable candidate for *Lambardar*. It is next submitted that the petitioner is a wrestler and gives free training to aspiring wrestlers and he had also held three wrestling melas in the village. It is also submitted that the petitioner had distributed cycles to needy students and also got constructed the boundary wall of the village school. Petitioner is stated to have remained as President of Village Cooperative Society and is available to the villagers at all times. Accordingly, it is submitted that the impugned orders may be set aside and the order passed by the learned Divisional Commissioner, may be upheld.

5. Heard.
6. Here, it would be apposite to state the relative merits of the candidates (as noticed by the learned Collector), which can be summed up as under :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Satnam Singh)</i>	<i>Resp. No.4 (Balwant Singh)</i>
<i>1</i>	<i>Age</i>	<i>39 years</i>	<i>45 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>Matric</i>	<i>B.A.</i>
<i>3</i>	<i>Land holding/s</i>	<i>6½ acres</i>	<i>16½ acres</i>
<i>4</i>	<i>Recommended by</i>	<i>-----</i>	<i>Sub-Divisional Magistrate.</i>

- 6.1 A bare perusal of the above chart would show that respondent No.4 is a mature man and is more educated than the petitioner. The learned Sub-Divisional Magistrate, had recommended the name of respondent No.4 for appointment as *Lambardar*.

7. In the present case, the respondent No.4 was appointed as the *Lambardar* by the learned Collector vide his order dated 31.08.2010 (Annexure P-1) by holding as under :-

“After hearing the arguments of the candidates, perusing the file and considering the case on the basis of merit, the undersigned has come to the conclusion that among all the candidates, candidate Balwant Singh son of Mr. Rachpal Singh is a permanent resident of village Ladin. Age 45 years. BA passed. Can read and write Punjabi, Hindi, English. He has 16 and a half acres of cultivable land in his name. Does not belong to any political party. Must have good conduct. The condition is also good. He has more information about the tasks/duties of the enumerator than the other candidate. Therefore, I appoint the candidate Mr. Balwant Singh, son of Mr. Rachpal, resident of village Ladien, as the new enumdar in place of the deceased enumerator Mr. Nathan Lal, village Ladien, Tehsil Nawanshehr. The candidate is instructed to submit an application for obtaining the license number after the expiry of the period. After example, the order and improvement should be done in the record room.”

7.1 It is noticed that the petitioner and another candidate namely, Narinder Singh challenged the appointment of respondent No.4 as Lambardar by filing their separate appeals, which came to be allowed by the learned Commissioner, however, the appointment of respondent No.4 as *Lambardar* was not set aside.

7.2 The learned Financial Commissioner, vide his order dated 22.09.2022 (Annexure P-4), set aside the Commissioner’s order and upheld the Collector’s order, by observing as under :-

“6. After considering the submissions of both the counsels and perused the record on the file. The ld. District Collector, SBS Nagar appointed the petitioner Balwant Singh as new lambardar of village Ladian, vide order dated 31.08.2010. Against this order two appeals filed before Ld. Commissioner which was accepted vide

order dated 27.04.2018 and remanded the matter back to District Collector with the sole ground that the petitioner has illegal possession over the panchayat land. On perusal of arguments put forth by counsel for the parties, I find that during the appointment of lambardar ten candidates were applied for the said post and after considering the inter-se merits of the candidates the ld. District Collector appointed the present petitioner Balwant Singh as new lambardar of the village. The ld. Commissioner remanded the matter only on the ground that the petitioner is in illegal possession of panchayat land but these allegations were not raised by the respondent before the ld. District Collector at the time of appointment. If the petitioner is in illegal possession of any land, then this issue considered as demerit of the petitioner but respondents never filed any document regarding this.

7. As per order of ld. District Collector, the petitioner Balwant Singh is more meritorious and suitable candidates. He is 45 years of age, B.A. Pass, read and writes Punjab, Hindi and English languages and also knowledge of lambardari work. He owns 16 Acres of agriculture land. He does not take part in any political activity. Good moral character and permanent resident of village Ladian. It is a settled law that choice of lambardar is primarily the prerogative and administrative act of the District Collector. His selection 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 his appointment. The scope of interference in the choice of the Collector cannot be extended to re-appreciating of the relative merits of the candidates. It lies within the domain and jurisdiction of the District Collector. The ld. Commissioner without discussing any demerit of the

petitioner Balwant Singh wrongly remanded the case ld. Collector for fresh decision.

In view of above discussion, I set aside the remand order of ld. Commissioner, Rupnagar Division, Rupnagar dated 27.04.2018. I do not see any flaw in the order of ld. District Collector, SBS Nagar dated 31.08.2010 which deserves to be upheld. The ld. Commissioner has illegally set aside the well-reasoned order of the ld. District Collector without discussing any demerit of petitioner and without giving any cogent reason. As concern of allegations made by respondents regarding illegal possession of the petitioner, I direct the District Collector, SBS Nagar to verify the illegal possession of the petitioner Balwant Singh by obtaining a report from the field staff.”

7.3 A perusal of the above extracted findings would show that the learned Collector as well as the learned Financial Commissioner, have examined the merits/de-merits of the candidates and thereafter, finding respondent No.4 as the suitable candidate, appointed him as the *Lambardar*. It is further apparent that the appointment of respondent No.4 as *Lambardar* was questioned only on the allegation that respondent No.4 is in unauthorized possession of *panchayat* land; however, it was observed that no such allegation was made before learned Collector, even then, the learned Financial Commissioner had directed the District Collector to verify illegal possession of respondent No.4. The said direction was issued about two years ago and the petitioner has not placed on record any material to indicate such illegal possession either by way of any information under the Right to Information Act, 2005 or any eviction petition or any notice by the competent authority for removal of any illegal possession. In the absence of relevant material/documents, no inference can be drawn as regards alleged illegal possession by respondent No.4.

7.4 In the case of *Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273*; it was held by the Division Bench of this Court that 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. It is also well established that the learned Collector is the main authority for appointment of the *Lambardar* and 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 learned Collector, which has been upheld by learned Financial Commissioner, is required to be respected.

7.5 Furthermore, according to the judgment in case of *Khajan Singh Versus Shamsher Singh, 1998 (3) RCR (Civil) 634*, the order dated 31.08.2010 (Annexure P-1) passed by learned Collector appointing respondent No.4 as *Lambardar*, has become final as the same was not set aside by the learned Divisional Commissioner, while remanding the matter to the learned Collector for fresh decision. Thus, in my considered view, the learned Financial Commissioner was justified in upholding the order of the learned Collector.

8. Accordingly, I do not find any merit in the present writ petition and the same is, accordingly, dismissed.

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

August 27, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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