

2024:PHHC:114376



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21853-2024 (O&M)
Date of decision :02.09.2024

CHARAN DASS

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Balraj Gujjar, Advocate
for the petitioner.

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

HARSH BUNGER, J. [ORAL]

Petitioner (Charan Dass) has filed the present petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *certiorari*, for setting aside the order dated 23.12.2020 (Annexure P-1) passed by the learned Deputy Commissioner-cum-Collector (in short 'the Collector), Shaheed Bhagat Singh Nagar (in short 'S.B.S. Nagar') whereby respondent No.5 (Balraj Singh Chaudhary) was appointed as *Lambardar* (General Category) of Village Jeetpur, Tehsil Balachaur, District S.B.S. Nagar.

A further prayer has been made for setting aside the order dated 07.09.2021 (Annexure P-2) passed by the learned Commissioner, Roop Nagar Division, Roop Nagar (in short 'Divisional Commissioner') and also the order dated 07.12.2023 (Annexure P-3) passed by the learned Financial Commissioner (Appeals), Punjab (in short 'the Financial

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

2. Briefly, on account of demise of Sh. Charan Dass, previous *Lambardar* of Village Jeetpur, on 10.06.2018; proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the afore-said vacancy, four applications (including the one submitted by the petitioner and another by respondent No.5) were received. Before the learned Tehsildar, Balachaur, two candidates namely Prem Chand and Sanjiv Kumar, withdrew their candidature in favour of respondent No.5-Balraj Singh Chaudhary, accordingly, only two candidates remained in the fray, whose antecedents were got verified from the local police, which were found to be in order.

2.1 The learned Tehsildar, Balachaur as well as learned Sub-Divisional Magistrate, Balachaur recommended the name of respondent No.5-Balraj Singh Chaudhary for appointment to the post of *Lambardar* and forwarded the file to learned District Collector, S.B.S. Nagar.

2.2 The learned District Collector, S.B.S. Nagar, vide order dated 23.12.2020 (Annexure P-1) appointed respondent No.5-Balraj Singh Chaudhary as *Lambardar* of Village Jeetpur.

3. Being dissatisfied with the Collector's order (Annexure P-1), the petitioner preferred an appeal before the learned Divisional Commissioner, which came to be dismissed vide order dated 07.09.2021 (Annexure P-2).

4. Still aggrieved, the petitioner preferred a revision petition (ROR No.32 of 2022) before the learned Financial Commissioner, which was also dismissed vide order dated 07.12.2023 (Annexure P-3).

5. In the afore-mentioned circumstances, the petitioner has filed the present petition before this Court.

6. Learned counsel for the petitioner submits that the learned Revenue Authorities below, have erred in law and fact in passing the impugned order and appointing respondent No.5 as the *Lambardar*. It is submitted that the authorities below have failed to consider the most vital aspect in the matter of appointment of *Lambardar*, which is the availability of the *Lambardar* in the Village. It is submitted that respondent No.5 is not residing in the village and is running a hospital namely, Ashirwad Hospital and Fertility Centre. It is further submitted that on account of the profession of respondent No.5, he would neither be available to the villagers nor he will be in a position to discharge the duties of *Lambardar*. It is next submitted that the petitioner is more suitable candidate for appointment of *Lambardar* as he had retired from Government Service and is readily available to the villagers. Accordingly, it is contended that the impugned orders be set aside and the petitioner be appointed as *Lambardar* of Village Jeetpur.

7. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance.

8. In the present case, the learned Collector, upon comparison of relative merits/de-merits of the candidates, appointed respondent No.5 as the *Lambardar* of Village Jeetpur, vide order dated 23.12.2020 (Annexure P-1), the relevant extract of which reads as under :-

“...After going through file and record, it is also come to the knowledge that the age of Balraj Singh Chaudhary is 48 years, whereas, age of Charan Dass is 68 years, beside this Balraj Singh Chaudhary is owner of 13 kanal 2 marle and 6 sarsai of land and candidate

Charan Dass is owner of 6 kanal land, so, Candidate Balraj Singh Chaudhary is younger than Charan Dass and owner of more land. Candidate B.S. Chaudhary is younger and owner of more land as compared to other candidate. Aadhar card of Balraj Singh Chaudhary is of village Jeetpur, Tehsil Balachaur, his vote is also in village Jeetpur and this candidate also has a water and electricity connection in village Jeetpur. That's why candidate Balraj Singh Chaudhary is permanent resident of village Jeetpur, Tehsil Balachaur. Candidate Balraj Singh Chaudhary has also remained as Sarbara Lambardar with his father due to which he has full knowledge of Lambardari work. As per report of SHO, PS Pojewal his character is also satisfactory. That's why candidate Balraj Singh Chaudhary is more deserving candidate than Charan Dass. Tehsil Balachaur (Circle Revenue Officer) in his report dated 02.07.2019 and Sub Divisional Magistrate vide his report dated 12.12.2019 also recommended the name of Sh. Balraj Singh Chaudhary s/o Charan Dass for the post of Lambardar. So, considering the reports of Tehsildar dated 02.07.2019 and SDM dated 12.12.2019 and agreeing to it Sh. Balraj Singh Chaudhary s/o Charan Dass, R/o Village Jeetpur, Tehsil Balachaur, District SBS Nagar is appointed New Namberdar of Village in place of deceased Charan Dass. Appointed Lambardar is hereby directed to forward an application for taking charge of the post of Lamberdari. File be sent to record room."

9. A perusal of the above extracted order would show that respondent No.5 is younger in age and having more land holding/s than the petitioner. Further, respondent No.5 has done M.B.B.S/M.D and is stated to be the son of deceased *Lambardar*. That apart, the candidature of respondent no.5 was also recommended by the learned *Tehsildar* as well as

the learned Sub-Divisional Magistrate, Balachaur. Considering all the afore-said factors, respondent No.5 was appointed as the *Lambardar*.

9.1 As regards the contention of the petitioner that respondent No.5 is not residing in the village and rather he runs a hospital at S.B.S. Nagar, it is observed that the learned Collector, has returned a categorical finding of fact that respondent No.5 is residing in the village and in that regard, his Aadhar Card is on record. Apart from that, the electricity/water connection in the village is in the name of respondent No.5 and even the vote of respondent No.5 is in the village.

9.2 That apart, if respondent No.5 is running a hospital at S.B.S. Nagar, that cannot be taken as de-merit. It is not shown from any material that respondent No.5 is not available throughout the day. Being a doctor, he is rendering service to the society/humanity. Furthermore, the learned Collector had duly considered the educational qualification of respondent No.5 and thereafter, appointed him as the *Lambardar*. The said appointment has further been upheld by the Appellate and the Revisional Authorities below.

10. 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*, who not only appreciates the antecedents of all the candidates in the fray but also personally interacts with them.

11. Learned counsel for the petitioner has failed to point out any illegality or perversity in the impugned orders, which may call for any interference by this Court.
12. In the afore-mentioned facts and circumstances, I do not find any merit in the instant writ petition and the same is, accordingly, dismissed.
13. All pending applications (if any) shall also stand closed.

September 02, 2024	(HARSH BUNGER)
gurpreet	JUDGE
Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No