

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

CWP-21271-2023

Date of Decision: 01.03.2024

Ruldu Ram

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Deepak Verma, Advocate, for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing the impugned order dated 24.08.2023 (Annexure P-8) passed by learned Financial Commissioner (Appeals), Punjab -respondent No.2 and also impugned order dated 04.10.2019 (Annexure P-5) passed by learned Commissioner, Rupnagar Division, Rupnagar -respondent No.3 as having been wrongly, illegally, and against the settled norms with perverse findings whereby reasonable findings vide order dated 28.11.2013 passed by competent authority i.e. District Collector, SBS Nagar (Annexure P1) regarding appointment of petitioner as Lambardar of village Ludhana Ucha, Tehsil Banga, District SBS Nagar, has wrongly been set aside.

Adumbrated facts of the case are that on account of death of Milkhi Ram, earlier Lambardar of the village Ladhana Ucha, Tehsil Banga, District Shaheed Bhagat Singh Nagar, post of SC Lambardar fell vacant and thus, process for the appointment of new Lambardar was initiated. *Mushtri Munadi* was conducted in the village for inviting applications from the interested and eligible candidates. In pursuance to the same, six applications were received including the petitioner (Ruldu Ram) and respondent No.5

(Kamaljit). Their antecedents were got verified from Senior Superintendent of Police, Shaheed Bhagat Singh Nagar. On comparison of their inter-se merits Sub Divisional Magistrate Banga, recommended the name of petitioner Ruldu Ram for the appointment of SC Lambardar. On appreciation of their inter-se merits, Ruldu Ram (petitioner) was found to be 44 years of age and matric pass by qualification. As far as Kamaljit (respondent No.5) is concerned, he was found to be 35 years of age and 10+2 pass by qualification. Learned Collector on evaluation of the inter-se merits and demerits of both the candidates, finding the petitioner to be more meritorious candidate appointed him as Lambardar of the village vide order dated 28.11.2013 (Annexure P-1). Aggrieved by the same, respondent No.5 filed an appeal before the Commissioner, Rupnagar Division, Rupnagar. Learned Divisional Commissioner after hearing both the sides remanded the case to the Collector vide his order dated 04.10.2019 (Annexure P-5). Aggrieved by the same, the petitioner filed an appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the Financial Commissioner, who after hearing both the sides, found no infirmity in the order passed by the Commissioner in remanding the case and thus, dismissed the appeal vide his order dated 24.08.2023 (Annexure P-8). Hence, aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has contented that on comparison of the inter-se merits of all the candidates in fray, the petitioner was found to be more meritorious and suitable and thus, he was rightly appointed as Lambardar of the village by learned Collector. He has submitted that the petitioner is very well educated being matriculate. It is

submitted that as per law settled, choice of the Collector cannot be interfered with in a cavalier manner, however, learned Commissioner and Financial Commissioner have failed to appreciate the same and thus, have illegally set aside the well reasoned order passed by the Collector. He also submits that the view taken by the Appellate authorities, is totally against the law settled. It is further submitted by him that the well reasoned order passed by the Collector has been set aside by the Commissioner only on the ground that the petitioner was working as a Driver and thus, he would not be able to discharge his duties as Lambardar. However, it was further contended that the petitioner is carrying out a business of tour and travels and hence, there is no question of his non-availability in the village. He has submitted that the impugned orders being against the law settled, deserve to be set aside.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that the Appellate authorities after appreciating the record and hearing both the side, have rightly remanded the case to the Collector for decision afresh, thus, there being no illegality in the impugned orders, the present petition deserves to be dismissed.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that though the petitioner was appointed by the Collector as Lambardar of the village, however, in the appeal filed, the order passed by the Collector was set aside by remanding the case for decision afresh. The specific ground for setting aside the order of the Collector was the non-availability of the petitioner in the village by virtue of the nature of his job he was performing. This fact was not discussed by

learned Collector and thus, the order was found to be perverse by the learned Appellate authorities. In the facts and circumstances, remanding the case for taking into consideration the specific ground of his non-availability, deserves to be appreciated again. Thus, this Court does not find any infirmity in the orders passed by the Appellate Courts in remanding the case to the Collector for decision afresh.

Learned counsel for the petitioner has stated that the petitioner is working as Lambardar of the village. In the facts and circumstances of the case, the Collector concerned is directed to decide the case afresh after hearing all the sides expeditiously preferably within three months from the date of receipt of copy of this order. Till the decision of the Collector, the petitioner would continue to work as Lambardar of the village.

Disposed of in abovesaid terms.

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.

01.03.2024
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No