

2024:PHHC:124217



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

CWP-24053-2024 (O&M)
Date of decision : 19.09.2024

PARAMJIT KAUR

...Petitioner

Versus

FINANCIAL COMMISSIONER (APPEALS), PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Rai Singh Chauhan, 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 of order dated 28.07.2021 (Annexure P-2) passed by the learned Commissioner, Jalandhar Division, Jalandhar (here-in-after referred as 'the Divisional Commissioner'); whereby the case was remanded to the learned Collector, Hoshiarpur for passing a fresh order after hearing the existing candidates, for the post of *Lambardar* of Village Mouli, Tehsil Mukerian, District Hoshiarpur.

A further prayer has been made for setting aside the order dated 18.12.2023 (Annexure P-4) passed by the learned Financial Commissioner (Appeals), Punjab (here-in-after referred to as 'the learned

Financial Commissioner); whereby the Appeal (ROA-47-2022) filed by the petitioner against Commissioner's order dated 28.07.2021 (Annexure P-2) was dismissed.

2. Briefly, on account of demise of Sh. Balwinder Singh, previous *Lambardar* of Village Mouli; proceedings were initiated for filling up the said vacancy. In pursuance to the proclamation carried out for filling up the afore-said vacancy, four applications (including the application submitted by the petitioner and respondent No.4) were received. It appears that the learned Collector, Hoshiarpur, vide order dated 27.09.2011, directed the Sub-Divisional Magistrate, Mukerian, for inviting fresh applications after conducting fresh *munadi* in the village. In pursuance to the said fresh proclamation, ten applications were received (including the applications submitted by the petitioner-Paramjit Kaur and respondent No.4-Dalip Singh).

2.1 It appears that the Naib Tehsildar, Mukerian recommended the name of respondent No.4 for appointment to the afore-said vacancy, however, the Sub-Divisional Magistrate, Mukerian recommended the name of one Lakhvinder Singh and the matter was referred to the learned Collector, who vide his order dated 22.10.2013 appointed Lakhvinder Singh as *Lambardar* of Village Mouli.

2.2 The order dated 22.10.2013 was challenged by respondent No.4 before the learned Commissioner, Jalandhar, who vide his order dated 21.11.2016 remanded the matter to the learned Collector, with a direction that all the candidates be heard again and the case be decided afresh.

2.3 It transpires that upon remand, only three candidates appeared before the learned Collector i.e. the petitioner-Paramjit Kaur, respondent No.4-Dalip Singh and one Lakhvinder Singh.

2.4 The learned Collector, vide his order dated 17.01.2019 (Annexure P-1) appointed the petitioner as the *Lambardar* of Village Mouli, Tehsil Mukerian, District Hoshiarpur.

2.5 The afore-said order dated 17.01.2019 (Annexure P-1) was challenged by respondent No.4 (Dalip Singh) and one Lakhvinder Singh, herein, by way of filing their separate appeals before the learned Divisional Commissioner.

2.6 However, when both the afore-said appeals came up for hearing before the learned Divisional Commissioner, it was informed that Lakhvinder Singh, had expired, accordingly, the appeal filed by him was dismissed as having been rendered infructuous vide order dated 28.07.2021 (Annexure P-2) and vide same order, the appeal filed by respondent No.4- Dalip Singh was allowed and the matter was remanded to the learned Collector with the direction to decide the case afresh after hearing the existing candidates.

2.7 Feeling aggrieved against the afore-said order dated 28.07.2021 (Annexure P-2), the petitioner preferred an appeal (ROA No.47 of 2022) before the learned Financial Commissioner.

2.8 The afore-said appeal came to be dismissed by the learned Financial Commissioner, vide order dated 18.12.2023 (Annexure P-4), whereby the Commissioner's order dated 28.07.2021 (Annexure P-2) was maintained.

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 Commissioner as well as the learned Financial Commissioner, have erred in

law and fact in passing the impugned order, by ignoring the settled law that in the matter of appointment of *Lambardar*, the choice of the learned Collector, is not to be interfered with. It is submitted that the petitioner is the more suitable candidate for the post of *Lambardar* being younger in age and having sufficient land holding and also being the wife of deceased *Lambardar*. Accordingly, it is submitted that the impugned orders may be set aside and the order passed by the learned Collector, may be upheld.

5. Heard.

6. Here, it would be apposite to state the relative merits and de-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 (Paramjit Kaur)</i>	<i>Resp. No.4 (Dalip Singh)</i>
<i>1</i>	<i>Age</i>	<i>44 years</i>	<i>53 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>7th pass</i>	<i>10th standard</i>
<i>3</i>	<i>Land holding/s</i>	<i>06 Kanals</i>	<i>14 Kanals</i>
<i>4</i>	<i>Recommended by</i>	<i>-----</i>	<i>Naib Tehsildar, Mukerian</i>
<i>5.</i>	<i>Remarks</i>	<i>Wife of deceased Lambardar</i>	<i>Ex-Serviceman</i>

7. A bare perusal of the above chart would show that although, the petitioner is younger in age but respondent no 4 is more educated than the petitioner and being an ex serviceman, he has rendered service to the State and even his name was recommended by the Naib Tehsildar. Further, respondent No.4 holds more land than the petitioner.

8. In the present case, the petitioner was appointed as the *Lambardar* by the learned Collector vide his order dated 17.01.2019

(Annexure P-1) by holding as under :-

“After hearing the candidate present personally and examining the file Smt. Paramjit Kaur wife of Palwinder Singh found suitable candidate for the appointment of Lambardar. She is permanent resident of the village and doing agriculturist because of which she is conveniently available to the inhabitants of the village for the purpose of their working affairs with the revenue department and other offices. She is younger than all other candidates. She is wife of deceased Lambardar, as such she is well conversant with the working affairs of Lambardari. Keeping in view the aforementioned facts, I, Isha Kalia, IAS, District Collector, Hoshiarpur appointed Smt. Paramjit Kaur wife of Balwinder Singh of Village Mouli, Tehsil Mukerian, District Hoshiarpur as new Lambaradar in place of Sh. Balwinder Singh (deceased) General Lambardar, Village Mouli Tehsil Mukerian, District Hoshiarpur. File be consigned to record room. Order announced.”

8.1 A perusal of Collector’s order would show that the petitioner was appointed as *Lambardar* only on the ground that she is younger than the other candidates; whereas, the other factors, as envisaged under Rule 15 of the Punjab Land Revenue Rules, have not been taken into consideration.

8.2 The appeal filed by respondent No.4-Dalip Singh against Collector’s order dated 17.01.2019 (Annexure P-1) was allowed by the learned Commissioner, vide order dated 28.07.2021 (Annexure P-2) whereby the matter was remanded to the learned Collector, to pass a fresh order after hearing the existing candidates. The Commissioner’s order has been further upheld by the learned Financial Commissioner, vide his order dated 18.12.2023 (Annexure P-4), by observing as under :-

“6. I have heard and considered the arguments advanced by Counsels for the parties and perused the

documents available on record. On perusal of the file, I find that the Commissioner, Jalandhar Division, Jalandhar has rightly remanded the case to the District Collector, Hoshiarpur for fresh decision because the merits of the respondent has not considered as per the provisions of Lambardari Rules, 1909. Admittedly, the respondent is an ex-serviceman and served the Indian Army. Rule 15(c) of the Punjab Land Revenue Rules, 1909 provides that while appointing a person to the post of village headman, preference will be given to the person who has rendered the service to the State.” Even after evaluating the comparative merits, I find that respondent is 10th pass, owns 15 kanal 0 marla of land. On the other hand, the appellant is only 7th pass and owns 6 kanal of land. Thus, this case require fresh look at the level of the District Collector in view of the facts mentioned above and the Commissioner, Jalandhar Division, Jalandhar has rightly remanded the case to the District Collector, Hoshiarpur. Therefore, I do not find any reason to interfere with order passed by the court below.

7. Resultantly, the present appeal is dismissed and the order dated 28.07.2021, passed by the Commissioner, Jalandhar Division, Jalandhar is upheld. Copy of this order be communicated to the courts below. File be consigned to the record room.”

9. In the afore-mentioned facts and circumstances, in my considered view, the findings returned by the learned Financial Commissioner and also the observations made by learned Financial Commissioner, that the case requires a fresh look at the level of District Collector, is correct and does not call for any interference by this Court.

10. No other argument has been raised.

11. Therefore, finding no merit in this writ petition, the same is

dismissed. However, the learned Collector shall decide the matter pertaining to appointment of *Lambardar* of Village Mouli, in accordance with law without being influenced by any of the observations made here-in-above or any observation made in the orders passed by the learned Commissioner as well as learned Financial Commissioner. It is further directed that the learned Collector, shall finally decide the case within a period of four months from the date of appearance of the parties before him. The parties shall appear before the learned Collector on 15.10.2024 or any other date as may be fixed by the learned Collector.

12. All pending applications (if any) shall also stand closed.

September 19, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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