



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24644-2024 (O&M)
Date of Decision: 01.10.2024

GURPREET SINGH
...Petitioner

Versus

STATE OF PUNJAB AND OTHERS
...Respondents

CORAM: HON’BLE MR. JUSTICE HARSH BUNGER

Present : Mr. R.S. Randhawa, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Sr. D.A.G., Punjab.

Mr. Vikas Mehsempuri, Advocate
for the caveator/respondent No.5.

HARSH BUNGER, J. (ORAL)

Petitioner (Gurpreet Singh) has filed the instant writ 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 18.12.2023 (Annexure P-5) passed by the learned Financial Commissioner (Appeals), Punjab.

A further prayer has been made for restoring the order dated 03.07.2018 (Annexure P-2) passed by the learned District Collector, Ludhiana, whereby the petitioner was appointed as *Lambardar* (General Category) of Village Saharan Majra, Tehsil Payal, District Ludhiana.

2. Briefly, on demise of Sh. Gurpreet Singh, previous *lambardar* (General) of Village Saharan Majra; 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 one submitted by the petitioner and another by respondent No.5 – Sukhvir Singh) were received. Out of these four candidates, two candidates namely Charanjit Singh S/o Dalip Singh and Kulwant Singh S/o Sadhu Singh, withdrew their applications and only two candidates i.e. the present petitioner and respondent No.5, remained in fray, whose antecedents were got verified from the local police, which were found to be in order.

2.1 The Naib Tehsildar, Maloud recommended the name of the present petitioner, whereas, the Sub Divisional Magistrate, Payal, recommended the name of respondent No.5 (Sukhvir Singh) for appointment to the afore-said vacancy and forwarded the case to the learned Collector. The learned Collector, Ludhiana, vide order dated 03.07.2018 (Annexure P-2), appointed the petitioner as *lambardar* of village Saharan Majra. An appeal filed by respondent No.5 against the Collector's order was dismissed by the learned Commissioner, Patiala Division, Patiala vide order dated 14.08.2019 (Annexure P-4).

2.2 Being dis-satisfied with the afore-said orders dated 03.07.2018 (Annexure P-2) and order dated 14.08.2019 (Annexure P-4), the respondent No.5 preferred a revision petition (ROR-54-2020) before the learned Financial Commissioner (Punjab), which came to be allowed vide order dated 18.12.2023 (Annexure P-5), whereby the matter has been remanded to the learned Collector, for fresh decision.

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

3. Notice of motion.

4. Mr. Nirmaljit Singh Diwana, Senior Deputy Advocate General, Punjab, who is present in the Court, accepts notice on behalf of respondent-State of Punjab.

4.1 At this stage, Mr. Vikas Mehsempuri, Advocate appears and accepts notice on behalf of respondent No.5/caveator. He submits that since the impugned proceedings/orders are *quasi-judicial* in nature and relate to appointment of *lambardar*, he does not wish to file any reply and has chosen to argue the matter on merits, today itself.

5. Learned counsel for the petitioner submits that the learned Financial Commissioner has erred in law and fact in passing the impugned order, without appreciating the settled law that in the matter of appointment of *lambardar*, the choice of Collector is not to be lightly interfered with unless there is a patent illegality or perversity therein. It is submitted that the learned Collector, after considering the relative merits and de-merits of the candidates and finding the petitioner as most suitable candidate, had appointed the petitioner as *lambardar*. It is further submitted that the learned Financial Commissioner had wrongly remanded the matter to the learned Collector, on the ground that the name of respondent No.5 was recommended by the Sub Divisional Magistrate, Payal, however, the learned Collector, had failed to give any reason for his dis-agreement with such recommendation. It is submitted that another reason stated by the learned Financial Commissioner, in the impugned order, is that respondent No.5 is 37 years old, whereas, the petitioner herein is 41 years old and there are

various judgments stating that a person, who is younger in age, should be given preference. It is submitted that the reasoning rendered by the learned Financial Commissioner, is untenable in law as the learned Collector, had based its findings after considering the overall merits of the candidates and the Collector's order was further upheld by the learned Divisional Commissioner, therefore, there was no occasion for the learned Financial Commissioner, to have upset the choice of the learned Collector. It is further submitted that the recommendation made by the Revenue Officers is not binding upon the Collector and he is required to apply his own independent judicious mind and then to arrive at a conclusion as regards the suitability of a candidate for appointment as *lambardar*. It is submitted that the petitioner is more meritorious than respondent No.5 and no interference was required to be made by the learned Financial Commissioner.

5.1 With the afore-said submissions, learned counsel for the petitioner submits that the impugned orders may be set aside and the order passed by the learned Collector, be maintained.

6. Per contra, learned counsel for the caveator/respondent No.5, has argued that no prejudice has been caused to the petitioner with the remand of the case as the learned Collector would re-appreciate the merits/de-merits of the candidates and pass a fresh order. It is submitted that order dated 03.07.2018 (Annexure P-2) passed by the learned Collector, was perverse as he neither considered the fact that the name of respondent No.5 was recommended by the learned Sub Divisional Magistrate, Payal nor he considered that respondent No.5 is younger in age than the petitioner; which are very relevant considerations in the matter of appointment of *lambardar*. It is also submitted that respondent No.5 has more land holding than the

petitioner, which makes him better off than the petitioner. It is, therefore, submitted that the Collector's order has been rightly set aside by the learned Financial Commissioner. Accordingly, prayer has been made for dismissal of the writ petition.

7. Heard.

8. In the present case, the learned Collector, Ludhiana appointed the petitioner as *lambardar* vide order dated 03.07.2018 (Annexure P-2), by observing as under :-

“File was presented, case was called out, both the candidates came present along with their respective counsels before the Hon'ble Court. Arguments of both the counsels were heard and thereafter both the candidates were heard personally. Candidate Gurpreet Singh S/o Amar Singh is aged about 41 years and is a graduate pass, he possesses 12 kanal and 7 marlas of land and carries out the work of agriculture and is also engaged in dairy farming. He takes part in cultural/social activities carried out in the village. He is the president of the Youth Service Club. He has donated blood 5 times. He is not related to any political party. His wife has remained Sarpanch of the village during the year 2008-2013. Second candidate has taken loan in the name of party. He answered the questions correctly regarding the revenue department. The candidate Sukhvir Singh S/O Karnail Singh is aged about 37 years, he is 10th passed. He has 7 and half kilas of land. He is also engaged in contractual farming of 15 kilas of land. He is also engaged in dairy farming. He is related to the deceased Nambardar. Respectable members of the patti as well as father of the other candidate has recommended his name. He is not related to any political party. He has not obtained any loan on his land. He has alleged against

the other candidate that he has got land transferred on his name during the pendency of a case against him. Supporter of the other party are from different patti/locality. He did not answer the question correctly regarding the revenue department. As per the above stated the candidate Gurpreet Singh S/O Amar Singh is more educated than the other candidate, and he participate in cultural/social activities. He is the president of the Youth Service Club. He has donated blood 5 times. He has knowledge about the Revenue Department and the other candidate S/O Karnail Singh did not answer the questions related to Revenue Department correctly, from which it has been found out that he has no knowledge regarding the Revenue Department. Therefore the candidate Gurpreet Singh S/O Amar Singh is appointed on the vacant post of General Nambardar of Village Saharan Majra in the place of deceased Nambardar Gurpreet Singh S/O Harjeet Singh. Order has been passed. File is consigned to record room after compliance.”

9. From the above extracted findings of the learned Collector, the merits of the petitioner and respondent No.5 can be summed up as under :-

S. No.	Particulars	Petitioner (Gurpreet Singh)	Respondent No.5 (Sukhvir Singh)
1	Age	41 years	37 years
2	Educational qualification	B.A.	Matric
3	Land holding/s	12 K – 7 M	7.5 Acres
4	Recommended by	Naib Tehsildar, Maloud	SDM, Payal

9.1 A bare perusal of the above-said comparison would clearly indicate that there is hardly any difference in the age of the parties, however,

the petitioner is more educated than respondent No.5. Even if, the age is to be considered, it is made out that although respondent No. 5 is younger in age than the petitioner and in case of '*Mahavir Singh v. Khiali Ram and others*', 2009(1) RCR (Civil) 757, it was held by Hon'ble Supreme Court that the age of a candidate is a relevant factor for appointment to the post of Lambardar; however it is also not disputed that the age of a person is to be considered in the context of his physical ability and capacity to discharge his duties as a headman of the village. No such plea has been raised that the petitioner is incapacitated from discharging the functions of a Lambardar, in view of his age. Petitioner started performing his duties as Lambardar on the basis of his appointment by the District Collector. There is nothing on record suggestive of the fact that any complaint was made against him that he is not able to render his services properly owing to his age. Similar view was taken by a Division Bench of this Court in *Ram Kumar v. Financial Commissioner, Haryana*, 2013(2) RCR (Civil) 1038.

9.2 No doubt, respondent No.5 owns more land than the petitioner; however, it is observed that holding of land is taken into consideration only for the purpose of security towards government revenue collected by the Lambardar. Petitioner has about 12 Kanal – 7 Marlas of land, which is sufficient to be taken into consideration for the purpose of security of revenue, collected by the Lambardar. Moreover, in case of *Gurpreet Singh versus Financial Commissioner (Revenue), Punjab*, 2017(1) RCR (Civil) 233, this Court has observed that land revenue stood abolished in both the State of Punjab and Haryana, long back, thus owning land by the candidates for the post of Lambardar would not be of much significance any further.

10. As far as the recommendations by the lower Revenue Officer is concerned, it is well settled that the Collector is not bound by the recommendation made by the Revenue Authorities in favour of a candidate; however, due consideration is to be accorded to such recommendations as they are in a position to assess the suitability of a candidate and such recommendation do have some persuasive value. However, it appears that in the present case, since the Naib Tehsildar, Maloud had recommended the name of the petitioner and the Sub Divisional Magistrate, Payal, had recommended the name of respondent No.5, the learned Collector proceeded to apply his independent mind to the other merits/de-merits of the candidates and finding the petitioner as more suitable candidate, appointed him as the *lambardar*.

11. Besides, I have gone through the order passed by the learned Collector, Ludhiana and a perusal thereof would show that the learned Collector has referred to the relative merits and de-merits of the petitioner as well as respondent No.5 and thereafter, learned Collector proceeded to highlight the better merits of the petitioner and accordingly, appointed the petitioner as Lambardar. The order passed by the learned Collector, Ludhiana is well reasoned and justified, which does not call for any interference. Moreover, the learned Collector's order was further upheld by the learned Divisional Commissioner, Patiala.

12. Furthermore, 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 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 Collector, could not have been ignored in a cavalier manner by the learned Financial Commissioner.

13. In the afore-mentioned facts and circumstances, I am of the considered view that the order dated 18.12.2023 (Annexure P-5) passed by learned Financial Commissioner, Punjab is unsustainable and the same is accordingly set aside. Resultantly, the instant writ petition is allowed and the order dated 03.07.2018 (Annexure P-2) passed by learned District Collector, Ludhiana, appointing the petitioner as Lambardar of Village Saharan Majra, Tehsil Payal, District Ludhiana, is upheld.

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

October 01, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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