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

CWP No.25296 of 2023

Date of Decision: 02.02.2024

Sukhwinder Kaur

..... Petitioner

Versus

Financial Commissioner, Appeals, Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Satpal Singh, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

Petitioner has approached this Court praying for quashing the impugned order dated 28.08.2023 (Annexure P-1) passed by respondent No.1 whereby he has set aside the well reasoned order dated 14.01.2021 passed by the Collector, Hoshiarpur (Annexure P-2) and order dated 13.10.2021 passed by the Commissioner, Jalandhar Division (Annexure P-3) and has remanded the case back to the District Collector Hoshiarpur with direction to decide afresh.

Adumbrated facts of the case are that on the death of earlier S.C. Lambardar, namely, Harbhajan Singh on 02.10.2019, the post of S.C. Lambardar in village Bahla/47, Tehsil Dasuya, District Hoshiarpur fell vacant. Thus, the process for appointment of new Lambardar was initiated and proclamation was made in the village for inviting the

applications from the interested and eligible candidates. In pursuance to the same, eight applications were received. Their character antecedents were got verified by the Police Department. On perusal of the applications filed, Sukhwinder Kaur i.e. the petitioner was found to be 51 years of age and 12th class pass by qualification. As per the police report, she was having good moral character. On the other hand, Karamjit Singh i.e. respondent No.3 was found to be 46 years of age and 10th class pass by qualification. As per police report, he was also having good moral character. On the evaluation of *inter se* merits and demerits of the candidates, the learned District Collector, Hoshiarpur found the petitioner to be most meritorious candidate and thus, appointed her as the Lambardar of the village vide his order dated 14.01.2021. Being aggrieved, respondent No.3 filed an appeal under Section 13 of the Punjab Land Revenue Act (for short 'the Act') before the learned Commissioner, Jalandhar Division, Jalandhar. The learned Commissioner, on hearing both the sides, found no merit in the appeal filed by respondent No.3 and thus, dismissed the same vide his order dated 13.10.2021 by upholding the order passed by the District Collector. Further being aggrieved by the order passed by the learned Commissioner, respondent No.3 filed revision petition under Section 16 of the Act before the learned Financial Commissioner, Punjab i.e. respondent No.1. The learned Financial Commissioner on hearing both the sides, accepted the revision petition filed by respondent No.3 and thus, set aside both the orders passed by the District Collector and the Commissioner vide his order dated 28.08.2023. The learned Financial

Commissioner remanded the case to the District Collector for decision afresh. Hence, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that on perusal of the *inter se* merits and demerits of the candidates, it is apparent that the petitioner was most meritorious candidates and thus, she was rightly appointed by the learned District Collector as the SC Lambardar of the village. He has submitted that the petitioner is a matured person and well qualified. He has submitted that the petitioner also remained Sarpanch of the village and is working as Anganwari teacher in the village. He has submitted that the appeal filed by respondent No.3 was also dismissed and thus, the order passed by the District Collector was upheld by the learned Commissioner. He has submitted that learned Financial Commissioner i.e. respondent No.1 has misinterpreted the evidence on record and the settled law. He submits that the learned Financial Commissioner has fallen in error in setting aside the well reasoned orders passed by the Collector and the Commissioner only on the ground that the petitioner is engaged in so many activities. He submits that it has been observed by the learned Financial Commissioner that as the petitioner is working as Anganwari teacher, hence, she would not be available for discharging the duties of Lambardar. He submits that the findings arrived at by respondent No.1 are totally unsustainable in the eyes of law and the order passed by the District Collector cannot be interfered unless the same suffers from any patent illegality or perversity. He submits that the learned Financial

Commissioner in violation of the settled law has set aside the order passed by the District Collector which was duly upheld by the Commissioner and thus, the impugned order being unsustainable in the eyes of law deserves to be set aside.

Notice of motion.

On asking of the Court, Mr. Arun William, AAG, Punjab appears and accepts notice on behalf of respondents No.1 and 2.

At this stage, Mr. Navjot Singh, Advocate has appeared and filed his vakalatnama on behalf of respondent No.3 today in the Court and the same is taken on record. He has opposed the submissions made by learned counsel for the petitioner. He has submitted that the learned Collector has appointed the petitioner by totally ignoring the *inter se* merits of both the candidates. He has submitted that admittedly the petitioner is working as Anganwari teacher and as she remains in the office of Chairman of the Block Samiti, thus she is affiliated with the political party as well. He submits that as per the instructions of the Punjab Government dated 01.08.2023, Anganwari teacher cannot accept the other posts under the State Government as welfare of the children would be seriously prejudiced. He submits that the learned Collector had failed to appreciate these facts and thus, the order passed by the Collector is perverse and hence has rightly been set aside by the learned Financial Commissioner by remanding the case to the Collector for decision afresh. He submits that the petition being devoid of any merit deserves to be dismissed.

Heard.

On hearing learned counsel for the parties and perusing the record, it is apparent that on the death of earlier SC lambardar, the process for appointment of new SC lambardar was initiated in the village. Though in pursuance to the mustri munadi/proclamation conducted, eight applications were received. However only two candidates i.e. the petitioner and respondent No.3 remained in fray. On the evaluation of *inter se* merits and demerits of both the candidates, the petitioner was appointed as SC lambardar of the village by the District Collector, which order was upheld by the Commissioner as well. However, on finding the orders passed by both the Courts being perverse, the Financial Commissioner set aside the same by remanding the case to the District Collector for decision afresh after hearing both the parties. It is an admitted fact that the petitioner is working as Anganwari teacher. Learned counsel for respondent No.3 has produced the instructions dated 01.08.2023 whereby the Anganwari workers are prohibited from working on two posts. The learned Financial Commissioner has also observed that the petitioner is working on other many posts and thus, her availability for discharging the duties as Lambardar is doubtful and the case deserves to be decided afresh after taking into consideration these facts.

This Court is in agreement with the findings of the learned Financial Commissioner that the case deserves to be decided afresh keeping in view the over all facts and circumstances of the case.

Thus, this Court does not find any merit in the present petition requiring interference by this Court. Hence, the same is dismissed as such. However, keeping in view the facts and circumstances

of the case, the learned District Collector, Hoshiarpur is directed to decide the case afresh after hearing both the parties again and pass a speaking order expeditiously in accordance with law preferably within a period of three months from the date of receipt of copy of this order. Office is directed to send a copy of the order to the concerned District Collector, who on receipt of the same would issue notice to the parties for appearance before him and proceed with the matter as per law.

(RAJESH BHARDWAJ)
JUDGE

02.02.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No