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

CWP No.29495 of 2023

Date of Decision: 07.02.2024

Gurlal Singh

..... Petitioner

Versus

Financial Commissioner, Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vikas Mehsempuri, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

Petitioner has approached this Court praying for quashing the impugned order dated 09.11.2023 (Annexure P-5) passed by respondent No.1; order dated 28.03.2022 (Annexure P-3) passed by respondent No.2 whereby the well reasoned order dated 14.01.2020 (Annexure P-1) has been set aside by respondent No.2 even without mentioning any illegality and perversity in the order dated 14.01.2020 passed by respondent No.3, who appointed the petitioner as lambardar of the village after going through the merits and demerits of the candidates. Further prayer has been made for staying the operation of impugned orders dated 28.03.2022 (Annexure P-3) passed by respondent No.2 and order dated 09.11.2023 (Annexure P-5) passed by respondent No.1 and the petitioner be allowed to work as lambardar and for directing

respondent No.3 not to issued Sanad Lambardari to respondent No.4 up till the decision of the present petition.

Adumbrated facts of the case are that on the death of earlier Lambardar, namely, Kundan Singh, the post of lambardar in village Dera Saiden, Tehsil Sultanpur Lodhi, District Kapurthala fell vacant. Thus, the process for appointment of new Lambardar was initiated and the mustri munadi was conducted in the village for inviting the applications from interested and eligible candidates. In pursuance to the same, nine applications were received from the candidates including the petitioner and respondent No.4. Their character antecedents were got verified by the Police Department. However, the petitioner and respondent No.4 finally remained in the fray. On perusal of the applications filed, Gurlal Singh i.e. the petitioner was found to be 62 years of age and 5th class pass by qualification. Besides this, he owned 56 kanals and 04 marlas of land. On the other hand, Gursharan Singh Thind i.e. respondent No.4 was found to be 37 years of age and 10⁺² class pass by qualification. Besides this, he owned 28 kanals and 16 marlas of land. On the comparison of *inter se* merits of both the candidates, Tehsildar, Sultanpur Lodhi recommended the petitioner to be appointed as Lambardar of the village, which was further endorsed by the Sub Divisional Magistrate, Sultanpur Lodhi. On the evaluation of *inter se* merits of both the candidates, the learned District Collector, Kapurthala found the petitioner to be more meritorious candidate and thus, appointed him as Lambardar of the village vide his order dated 14.01.2020. Being aggrieved, respondent No.4 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 and appreciating the evidence on record, found the order passed by the District Collector to be perverse and thus, by setting aside the same, remanded the case to the District Collector for a decision afresh vide his order dated 28.03.2022. Being aggrieved by the order passed by the learned Commissioner, the petitioner assailed the same by way of filing an appeal under Section 13 of the Act before the learned Financial Commissioner, Punjab i.e. respondent No.1. However, the learned Financial Commissioner on hearing both the sides, finding no merit in the appeal filed by the petitioner, dismissed the same vide his order dated 09.11.2023 and thus, upheld the remand order passed by the Commissioner dated 28.03.2022. Hence, the petitioner is before this Court by way of filing the present writ petition.

Learned counsel for the petitioner has vehemently contended that in pursuance to the mustri munadi conducted, the petitioner applied for the appointment to the post of Lambardar. He submits that on comparison of the *inter se* merits of both the candidates, the petitioner was found to be a matured candidate who had sufficient land in the village. He submits that the petitioner had a good reputation in the village and thus, finding him more meritorious, he was appointed as Lambardar of the village by the learned District Collector, Kapurthala vide his order dated 14.01.2020. He submits that the learned Commissioner however has set aside the well reasoned order passed by the Collector. He has submitted that respondent No.4 do not own any land in the village and

the same is in another village. He submits that appointing the lambardar is the prerogative of the Collector and finding the petitioner more meritorious, he was appointed as Lambardar of the village by the Collector. He submits that as per law settled, the order passed by the Collector cannot be interfered by the Appellate Authority unless the same suffers from any perversity. However, there being no perversity in the order passed by the Collector, the learned Commissioner had illegally set aside the same. He submits that the learned Financial Commissioner i.e. respondent No.1 equally failed to appreciate the evidence on record and the law settled and thus illegally upheld the remand order passed by the learned Commissioner. He submits that the impugned orders being totally unsustainable in the eyes of law deserve to be set aside.

Heard.

On hearing learned counsel for the petitioner and perusing the record, it is evident that on comparison of *inter se* merits of both the petitioner and that of respondent No.4, it is apparent that respondent No.4 is much younger in age than the petitioner. Besides this, he has more qualification being 10+2 pass. The contention of learned counsel for the petitioner that the petitioner though has sufficient land but in different villages is also of no consequence. As per the settled proposition of law held by the Hon'ble Supreme Court in the judgment titled as ***Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757***, a candidate who is younger in age should be given the preference, whereas the learned Collector has miserably failed to appreciate the same. Thus, the Commissioner has rightly found the order passed by the Collector to be

perverse and hence, remanded the case for decision afresh, which was further upheld by the learned Financial Commissioner as well.

In view of the facts and circumstances of the case and the law settled, this Court does not find any infirmity in the impugned orders passed. Hence, the present petition being devoid of any merit is hereby dismissed. However, the District Collector is directed to decide the case afresh after hearing both the sides in accordance with law 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

07.02.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No