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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11741-2023 (O/M)

Date of decision : 21.02.2025

Gurtar Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Amandeep Singh Gill, Advocate
for the petitioner.
Ms. Vikas Suman Chaudhary, DAG Punjab.
Mr. Sherry K. Singla, Advocate
for respondent No. 4.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Gurtar Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 31.10.2022 (Annexure P-11), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner').

2. Briefly, on demise of Shri Onkar Singh, previous Lambardar (General Category) of village Muzzaffarpur, Tehsil and District Jalandhar, proceedings were initiated for filling up the aforesaid vacancy. In pursuance to the proclamation made in the village, 6 candidates (including the petitioner-Gurtar Singh and respondent No. 4-Ranbir Singh) applied for the aforesaid vacancy.

2.1 The Naib Tehsildar, Jalandhar-I as well as Sub Divisional Magistrate, Jalandhar-I, recommended the candidature of present petitioner (Gurtar Singh) for appointment to the aforesaid vacancy and forwarded the matter to the learned Collector, Jalandhar (in short 'Collector').

2.2 Learned Collector, upon considering the relative merits and demerits of the candidates and finding petitioner (Gurtar Singh) as the suitable candidate, appointed him as Lambardar (General Cateogry) of village Muzzaffarpur, vide order dated 14.07.2016 (Annexure P-5).

2.3 Feeling aggrieved, respondent No. 4 challenged the order dated 14.07.2016 (Annexure P-5) by filing an appeal before learned Commissioner, Jalandhar Division, Jalandhar, which was dismissed, vide order dated 15.02.2017 (Annexure P-7).

2.4 Still aggrieved, respondent No. 4 preferred a revision petition (ROR-377-2017) before learned Financial Commissioner, which came to be allowed, vide order dated 31.10.2022 (Annexure P-11) and the matter was remanded to learned Collector to re-evaluate the comparative merits of both the candidates i.e. petitioner and respondent No. 4 herein.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. Heard.

5. Here, it would be apposite to refer to the comparative merits and demerits of the candidates, as noticed by learned Collector, which is as under :-

Particulars	Petitioner (Gurtar Singh)	Respondent No. 4 (Ranbir Singh)
Age	52	20
Educational qualification	Matriculate	12 th
Land holdings etc.	5 Acres - 1 Kanal; having land in three more villages; having a dairy farm; Member of a Cooperative Society	9 Kanal - 12 Marla
Recommended by	Naib Tehsildar, Tehsildar and Sub Divisional Magistrate, Jalandhar-I	--
Other remarks	---	Hereditary claim

6. Upon noticing the above extracted merits of the candidates, learned Collector found the petitioner as most suitable candidate, by observing as under :-

“ The arguments put by Ld. Counsels for candidates during the course of arguments were duly considered. Ranvir Singh, candidate, is having lesser land at village Muzaffarpur than rival candidate Gurtar Singh. He is also much younger than Gurtar Singh, candidate. Gurtar Singh, candidate, is aged about 52 years. His father remained Sarpanch of village Muzaffarpur for about 22 years. From this, it is apparently clear that he is having sufficient knowledge about the works of inhabitants of village. Moreover, attitude wise, Gurtar Singh appears more intelligent than Ranvir Singh, candidate and can perform the duties of Nambardar in proper manner. The Naib Tehsildar, Tehsildar and S.D.M., Jalandhar-I have also recommended to appoint said candidate as Nambardar. Hence I find Gurtar Singh son of Nirmal Singh better and eligible candidate for the post of Nambardar. I agree with the recommendations made by lower revenue officers and appoint him as Nambardar, General Category, village Muzaffarpur, Tehsil Jalandhar-I, District Jalandhar.”

6.1 The aforesaid learned Collector's order has been further upheld by learned Divisional Commissioner.

6.2 The learned Financial Commissioner, Punjab, vide order dated 31.10.2022 (Annexure P-11), allowed the revision petition (ROR-377-2017), filed by respondent No. 4 and remanded the matter to the learned Collector for afresh decision, by observing as under :-

“6. I have heard counsel for both the parties, gone through their submissions and perused the orders of the courts below. From the perusal of the order of lower court, I find that District Collector, Jalandhar vide order dated 14.07.2016 appointed respondent as lambardar on the

sole ground that he has more land holding. The appointment of Lambardar of General Category, to which we are concerned in this case, is regulated by Rule 15 of the Punjab Land Revenue Rules which requires several factors including the age, hereditary claim, property in estate, reputation and character of the person to be appointed as lambardar. It is the duty of the revenue authorities that only a suitable candidate should be appointed for the post of Lambardar. The Hon'ble High Court in the case titled as *Mohinder Pal Versus The Financial Commissioner, Haryana and others* reported as 2013 (3) L.A.R. 95 (P&H) has held that "Endeavour of the revenue authorities should be to appoint a person of clean image and most suitable out of the contesting candidates." In the present case, the overall comparative merits of the candidates are not properly assessed by the District Collector as per Rule 15 of the Punjab Land Revenue Rules. Also, the Commissioner has only taken a leaf out of Collector's book and passed a non speaking order. Thus, there is clear non observance of the settled law by the Commissioner as well as the District Collector and the orders of the courts below suffer from illegality and perversity.

7. Therefore, keeping in view the aforesaid facts, circumstances of the case, I accept the present revision petition; order dated 15.02.2017 passed by Commissioner, Jalandhar Division, Jalandhar and order dated 14.07.2016 passed by District Collector, Jalandhar is set aside. The case is remanded to District Collector, Jalandhar with a direction to re-evaluate all the comparative merit of both the candidates; keeping in view the settled principle of law and appoint a suitable candidate as lambardar of village Muzaffarpur, Tehsil Jalandhar-I, District Jalandhar."

6.3 A perusal of the above extracted finding returned by learned

Financial Commissioner would manifest that the matter has been

remanded by observing that the petitioner was appointed only on account

of his more landholding, whereas other relevant factors were not properly assessed, however, I am not in agreement with the reasoning put-forth by the learned Financial Commissioner.

6.4 A perusal of learned Collector's order would show that he has taken note of age, education, landholding etc. of the respective candidates and also taken into account the recommendation by lower revenue officers etc. At the relevant time, when the matter was put up before learned Collector, respondent No. 4 was a novice of about 20 years of age whereas the petitioner was found to be a mature and intelligent person. Learned Collector found petitioner as a suitable candidate to carry out the duties of the office of Lambardar. Moreover, the lower revenue officers had also recommended the candidature of the petitioner for appointment to the aforesaid vacancy.

6.5 As far as the recommendations by the lower revenue officer is concerned, although, 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 would have some persuasive value. In this regard, reference can be made to the observations made in the case of ***Hakam Singh Versus Financial Commissioner (Revenue), Punjab***, 2016(4) RCR (Civil) 335 and ***Atma Singh Versus The Financial Commissioner, Revenue, Punjab***, 2016(1) LAR 592.

6.6 As regards the hereditary claim of respondent No. 4 is concerned, the same has been held to be ultra vires the Constitution, by a Division Bench of this Court in ***Karnail Singh Versus State of Haryana***

6.7 It is a well settled law that in the matter of appointment of Lambardar, the choice of Collector is not to be lightly interfered with even if two views are possible. In this regard, reliance can be placed upon a Division Bench judgment of this Court in ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab, 2016 (1) RCR (Civil) 273.***

7. Considering the totality of circumstances, I am of the considered view that the learned Collector had rightly appointed the petitioner as Lambardar (General Category) of village Muzzaffarpur, Tehsil and District Jalandhar, which has been further upheld by the learned Divisional Commissioner. The reasoning put-forth by learned Financial Commissioner for remanding the matter to learned Collector, as noticed hereinabove, is unsustainable keeping in view the well settled law that in the matter of appointment of Lambardar, the choice of learned Collector is not to be lightly interfered with. Accordingly, the impugned order dated 31.10.2022 (Annexure P-11), passed by the learned Financial Commissioner is set aside and the order dated 14.07.2016 (Annexure P-5), passed by learned Collector, appointing the petitioner as Lambardar (General Category) of village Muzzaffarpur, Tehsil and District Jalandhar, is maintained.

8. In view of the above, the instant civil writ petition is allowed and disposed of in the aforestated terms.

9. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

21.02.2025
sjks

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