

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

CWP-11288-2023 (O&M)
Date of decision :08.01.2025

HARDEV SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER, PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. H.S. Dhandi, Advocate
for the petitioner.

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

Mr. Manish Kumar Singla, Advocate
for respondents No.3.

HARSH BUNGER, J. [ORAL]

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 17.01.2018 (Annexure P-4), passed by the learned Commissioner, Patiala Division, Patiala (in short 'Divisional Commissioner') and also the order dated 02.03.2023 (Annexure P-6), passed by learned Financial Commissioner, Punjab (in short 'Financial Commissioner').

2. Briefly, on demise of Shri Gurdial Singh, previous *Lambardar* of Village Bhullerheri, Tehsil Dhuri, District Sangrur, proceedings were initiated for filling up the vacancy; wherein, petitioner-Hardev Singh as well as respondent No.3-Darshan Singh were also the candidates. The learned Tehsildar, Dhuri recommended the candidature of respondent No.3-Darshan Singh, whereas learned Sub-Divisional Magistrate, Dhuri

recommended the candidature of petitioner-Hardev Singh and placed the matter before the learned Collector, Sangrur.

2.1 The learned Collector, Sangrur; after considering the relative merits and demerits of the candidates, found the petitioner (Hardev Singh) as most suitable candidate for the post of *Lambardar* and appointed him as such, vide order dated 08.01.2016 (Annexure P-3).

2.2 Feeling aggrieved against the Collector’s order, respondent No.3-Darshan Singh preferred an appeal before the learned Commissioner, Patiala Division, Patiala; which came to be allowed vide order dated 17.01.2018 (Annexure P-4), whereby the matter was remanded to learned Collector for fresh decision.

2.3 Being dis-satisfied with the Commissioner’s order dated 17.01.2018 (Annexure P-4), the petitioner (Hardev Singh) preferred an appeal (***ROA No. 24 of 2018***) before the learned Financial Commissioner, which came to be dismissed, vide order dated 02.03.2023 (Annexure P-6).

2.4 In the afore-mentioned circumstances, the present writ petition has been filed before this Court, for the relief/s, as noticed here-in-above.

3. Heard.

4. I have heard learned counsel for respective parties and have also perused the paper-book with their able assistance.

5. Here, it would be apposite to state the relative merits of the candidates, which can be summed up as under :-

<i>Particulars</i>	<i>Petitioner (Hardev Singh)</i>	<i>Resp. No. 3 (Darshan Singh)</i>
<i>Age</i>	<i>45 years</i>	<i>48 years</i>
<i>Educational qualification</i>	<i>10th pass</i>	<i>5th pass</i>
<i>Land holding/s</i>	<i>17 Bighas</i>	<i>7 Bighas – 5 Biswas</i>
<i>Recommended by</i>	<i>Sub Divisional Magistrate</i>	<i>Tehsildar</i>

5.1 A bare perusal of the above comparison would show that the petitioner clearly has an edge over respondent No. 3, inasmuch as that he is younger in age, more educated and owns more land than respondent No. 3.

5.2 Apparently, considering the better merits of the petitioner, learned Collector, Sangrur vide its order dated 08.01.2016 (Annexure P-3) appointed him as *Lambardar* of Village Bhullerheri; however learned Commissioner allowed the appeal filed by respondent No. 3 (Darshan Singh) and remanded the case to the learned Collector for fresh decision, primarily on the ground that respondent No. 3 (Darshan Singh) had worked for six years as *Sarbarah Lambardar* and said fact has not been considered by the learned Collector. Even the learned Financial Commissioner has upheld the order passed by the learned Commissioner.

6. As regards the plea of respondent No. 3 (Darshan Singh) in respect of his experience of having worked as *Sarbarah Lambardar*, a Division Bench of this Court in ***Ashok Kumar v. State of Haryana, 2012(68) RCR (Civil) 198***; observed that if such a plea is accepted by giving preference to a *Sarbarah Lambardar*, it would, in essence, amount to giving preference to a hereditary claim, when, otherwise, the provision in respect of hereditary claim offends Article 14 of the Constitution of India, as held in '***Karnail Singh v. The State of Haryana etc', 1973 PLJ 676***.

6.1 Further, the approach of learned Commissioner is contrary to well established position in law that in the matter of appointment of *Lambardar*, choice of the District Collector is not to be lightly interfered with, even if two views are possible, unless there is any patent illegality or perversity therein. In this regard, reference can be made to ***Kuldip Singh Versus Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273***.

6.2 I am also of the view that educational qualification of a candidate is also a relevant consideration for appointment of a *Lambardar* as the same would clearly fall for consideration under the aspect of “*ability*” of a candidate, especially taking into consideration the nature of duties to be performed by a *Lambardar*.

6.3 Further, in *Mahavir Singh Versus Khiali Ram and Others*, 2009(1) RCR (Civil) 757, Hon'ble the Supreme Court held that with regard to the appointment of a *Lambardar* in the State of Punjab, age of a candidate is a relevant factor.

7. Considering the totality of circumstances, I am of the considered view that the learned Collector was justified in appointing petitioner-Hardev Singh as *Lambardar* of village Bhullerheri, Tehsil Dhuri, District Sangrur and learned Commissioner as well as learned Financial Commissioner have erred in passing the impugned orders dated 17.01.2018 (Annexure P-4) and 02.03.2023 (Annexure P-6), respectively. The same are accordingly set aside.

7.1 Resultantly, the instant writ petition is allowed and the order dated 08.01.2016 (Annexure P-3) passed by learned Collector, appointing the petitioner (Hardev Singh) as *Lambardar* of village Bhullerheri, Tehsil Dhuri, District Sangrur, is maintained.

8. All pending application/s, if any, shall also stand closed.

January 08, 2025

gurpreet

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(HARSH BUNGER)
JUDGE