

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 27.05.2025

1. CWP-9027-2018 (O/M)
Bhupinder Sood Petitioner

Versus

Financial Commissioner (Revenue), Punjab and ors..... Respondents

2. CWP-16728-2018 (O/M)
Manjit Singh Sood Petitioner

Versus

Financial Commissioner (Revenue), Punjab and ors..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vaneet Thakur, Advocate for
Mr. B.S. Seemar, Advocate
for the petitioner in CWP-9027-2018 and
for respondent No. 5 in CWP-16728-2018.

Ms. G.K. Hundal, Advocate for
Mr. R.D. Rattewal, Advocate
for the petitioner in CWP-16728-2018 and
for respondent No. 5 in CWP-9027-2018.

Mr. B.S. Bali, Additional A.G. Punjab.

Mr. Sunny K. Singla, Advocate
for respondent No. 4 in both cases.

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HARSH BUNGER, J.

1. This order shall dispose of above referred two writ petitions
i.e. CWP-9027-2018 and CWP-16728-2018, as both the civil writ
petitions relate to appointment of Lambardar of village Aalowal, Tehsil
Balachaur, District Shaheed Bhagat Singh Nagar (in short "SBS Nagar").

2. Prayer in CWP-9027-2018, filed under Articles 226/227 of Constitution of India is setting aside order dated 30.05.2017 (Annexure P-4), passed by learned Commissioner, Roopnagar Division, Roopnagar (in short 'Ld. Commissioner') and order dated 24.01.2018 (Annexure P-6) passed by the learned Financial Commissioner (Revenue), Punjab (in short 'Ld. Financial Commissioner'). Further prayer has been made for upholding order dated 31.08.2010 (Annexure P-1), passed by learned Collector, SBS Nagar (in short 'Ld. Collector').

2.1 Prayer in CWP-16728-2018, filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside order dated 31.08.2017 (Annexure P-1), passed by learned Collector, SBS Nagar; order dated 30.05.2017 (Annexure P-2), passed by the learned Commissioner and also the order dated 24.01.2018 (Annexure P-4), passed by learned Financial Commissioner.

2.2 For brevity, facts have been taken from CWP-9027-2018.

3. Briefly, on demise of Shri Ranjit Singh, previous Lambardar (General) of village Aalowal, Tehsil Balachaur, District SBS Nagar, proceedings were initiated for filling up the aforesaid vacancy, wherein Bhupinder Sood (petitioner in CWP-9027-2018); Manjit Singh Sood (respondent No. 5 in CWP-9027-2018 and petitioner in CWP-16728-2018) and Avtar Singh (respondent No. 4 in CWP-9027-2018 and also respondent No. 4 in CWP-16728-2018) were the candidates.

3.1 It appears that learned Sub Divisional Magistrate, Balachaur (in short 'SDM') recommended the candidature of Avtar Singh for

appointment to the aforesaid vacancy and placed the matter before learned Collector.

3.2 Learned Collector, vide order dated 31.08.2010, appointed Bhupinder Sood (petitioner in CWP-9027-2018) as Lambardar of village Aalowal.

3.3 Learned Collector's order dated 31.08.2010 came to be challenged before learned Divisional Commissioner by four candidates, namely, Avtar Singh, Baljinder Kumar, Manjit Singh Sood and Ranbir Singh by filing their separate appeals. All the aforesaid four appeals came to be decided by learned Divisional Commissioner, vide common order dated 30.05.2017, whereby the appeal filed by Avtar Singh was allowed and he was appointed as new Lambardar of village Aalowal.

3.4 Apparently, the common order dated 30.05.2017, passed by learned Divisional Commissioner, came to be challenged by Bhupinder Sood as well as Manjit Singh Sood by filing their separate appeal and revision, respectively, before learned Financial Commissioner.

3.5 Both the above referred appeal as well as revision petition preferred by Bhupinder Sood and Manjit Singh Sood came to be dismissed, vide common order dated 24.01.2018.

4. In the aforementioned circumstances, the instant civil writ petitions have been filed before this Court, for the relief(s), as noticed hereinabove.

5. Heard.

6. In the present case, the learned Collector appointed Bhupinder Sood as Lambardar of village Aalowal, vide order dated 31.08.2010, by observing as under :-

“The present candidates/counsel were heard thoroughly. Record was perused on merits. After hearing the Ld. Counsel/candidates and perusing the case file, it is found that candidate Sh. Baljinder Singh is having no residence in the Village Aalowal but in Aima, therefore he is not an eligible candidate for the post. Candidate Sh. Manjit Sood is having shop of general store in the village and is also looking after the Mini Bus permit which is in the name of his mother, therefore this candidate will also not find time for the works of the people of the village in case he is appointed as Lambardar of the village. Candidate Tasvir Singh is also not having land as well as residence in Patti Dhude Khan to which this Lambardari relates therefore this candidate is also not eligible for the post. Candidate Bhupinder Singh, aged 32 years is younger and intelligent to all the other candidates. He is 10+2 and can read and write, English, Hindi and Punjabi language. He is owner of 4 Kanals of land. He is working as a typist in the Tehsil complex Balachaur. The people of the village often have works in the Tehsil only therefore he may be easily available for the villagers being working in the Tehsil Complex. He is president of Sports Club. He has more knowledge of work of Lambardari as compared to other candidates. Though SDM, Balachaur has recommended the name of Avtar Singh but this candidate is older in age to all the candidates whereas younger candidates are available. Therefore, keeping in view the above said facts and not agreeing with the recommendation of SDM Balachaur, the above said facts and not agreeing with the recommendation of SDM Balachaur, I appoint, Sh. Bhupinder Sood son of Ramjit Sood as Lambardar of village Aalowal, Tehsil Balachaur, District Shaheed Bhagat Singh Nagar. Appointed Candidate is directed to file application for Sanad Lambardari after expiration of limitation of appeal. Case file be consigned to

record room after due completion.”

7. An appeal filed by Avtar Singh against learned Collector's order dated 31.08.2010 came to be allowed and Avtar Singh was appointed as Lambardar by learned Divisional Commissioner, vide order dated 30.05.2017 by observing as under :-

“ After perusing the above said facts it is found that appellant Avtar Singh is having more land than the others. He is doing agriculture job in the village, his residence and land is in Patti Dhude Khan and he is the only candidate belonging to general category. This Lambardari pertains to General category. He has been retired from the army and is always available in the village for the Lambardari works of the villagers. He was more eligible to the post of General Lambardari but the respondent has been appointed as Lambardar of the village on the ground that he is working as a typist in the Tehsil Complex and is easily available for the villagers for the works of Lambardari. But the Ld. Collector ignored this aspect that his license was cancelled by his office for selling the stamp papers by cheating. The post of Lambardari is a post of responsibility, then how this person can be appointed as Lambardar against whom action has been taken for committing cheating. The works of the Lambardari are not confined to Tehsil but the officials of different departments visit the village, where Lambardar is called for attestation. If Lambardar is working as a Stamp vendor in Tehsil then he will not be available in the village. Therefore by seeing the merits of the appellant Avtar Singh upper in all aspects and by not agreeing with the order dated 31.08.2010 passed by the District Collector Shaheed Bhagat Singh Nagar, I order to allow the appeal filed by Avtar Singh and to appoint Avtar Singh s/o Chain Singh as new Lambardar (General) of Village Aalowal, Tehsil

Balachaur, District Shaheed Bhagat Singh Nagar in place of deceased Lambardar Ranjit Singh. Order is pronounced.”

7.1 A perusal of above extracted order passed by learned Divisional Commissioner would show that learned Divisional Commissioner got swayed by the fact that Avtar Singh is the only candidate belonging to General category and the Lambardari also pertains to General category. In my considered view, the aforesaid approach of learned Divisional Commissioner in appointing Avtar Singh as Lambardar is totally misplaced.

7.2 It is also observed that while allowing the appeal, filed by Avtar Singh, learned Divisional Commissioner did not set aside the order dated 31.08.2010, passed by learned Collector and it is also not forthcoming as regards the fate of three other appeals, which were also decided by learned Divisional Commissioner, vide common order dated 30.05.2017.

7.3 That apart, there is no firm finding that on the date of order dated 31.08.2010, passed by learned Collector; Avtar Singh was a resident of village Aalowal. It is observed that a specific allegation has been made by the petitioner (Bhupinder Sood) that Avtar Singh is not a resident of village Aalowal and in support of said plea, he has placed reliance on voters list of village Aima pertaining to year 2009, 2013, 2014 and 2017, wherein name of Avtar Singh is mentioned at Serial No. 37. In this regard, a specific averment has been made in para-11 of the writ petition, which reads as under :-

“11. That the respondent no. 1 and 2 failed to appreciate that the respondent No. 4 is not even the resident of Village Aalowal and therefore cannot be appointed as a Lambardar

of village Aalowal. The respondent No. 4 alongwith his family is residing in adjoining village Aaima which is proved from the voter list of year 2009 to 2017 and is annexed as Annexure P-9 (Colly) for the kind perusal of this Hon'ble Court. This aspect of the matter is not even considered by the respondent No. 1 and 2 while passing the impugned order dated 24.01.2018 and 30.05.2017 respectively."

7.4 It is interesting to note that in response to the said averment, Avtar Singh has taken the following stand in para-11 of reply :-

"11. That furthermore the petitioner is raising allegation against the answering respondent that the answering respondent belongs to Village Amma which is totally wrong as respondent is resident of Village Allowal and having land and house at Village Allowal which is clear from the Aadhar Card, jamabandi and the site plan of the house of the answering respondent and the electric connection which is in the name of answering respondent. It is important to mention here that the Ld. Tehsildar has issued the residence certificate to the answering respondent which clearly mentioned that the answering respondent is resident of Village Allowal. The copy of Aadhar Card, jamabandi and certificate are annexed as Annexure R-4 to R-6."

7.5 A perusal of Annexure R-4 to Annexure R-6 would show that Annexure R-4 is copy of Aadhar Card of Avtar Singh of village Aalowal, however, the date of issue of such Aadhar Card is not forthcoming. The other document is jamabandi (Annexure R-5) for the year 2003-04, depicting land holding of Avtar Singh in village Aalowal, however, the said document also does not substantiate his plea of residence in village Aalowal and Annexure R-6 is residence certificate, which has been issued on 17.01.2019, whereas the order was passed by learned Collector on 31.08.2010. The aforesaid aspect is also required to be looked into.

8. Evidently, learned Financial Commissioner failed to notice the aforesaid infirmity in the order dated 30.05.2017, passed by learned Divisional Commissioner and wrongly upheld the learned Divisional Commissioner's order, vide order dated 24.01.2018.

8.1 On the other hand, although Bhupinder Singh was appointed as Lambardar by learned Collector but learned Commissioner had allowed the appeal of Avtar Singh by observing that since Bhupinder Singh is working as a stamp vendor in the Tehsil, therefore he will not be available to villagers and also that his licence was cancelled for selling stamp papers by cheating.

8.2 In my considered view, availability of a candidate in the village is a vital consideration; which is also required to be considered while appointing a candidate to the post of Lambardar.

9. In view of the above discussion, the order dated 31.08.2010; order dated 30.05.2017 and order dated 24.01.2018, passed by learned Collector, learned Commissioner and learned Financial Commissioner, respectively are set aside and the matter is remanded to learned Collector for fresh decision, after affording due opportunity of hearing to all concerned parties, in accordance with law. It is further directed that learned Collector shall decide the matter within four months from the date of receipt of certified copy of this order.

9. Resultantly, both writ petitions are partly allowed and disposed of in the aforestated terms.

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

CWP-9027-2018 (O/M)
CWP-16728-2018 (O/M)

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11. Photocopy of this order be placed on connected case file.

(HARSH BUNGER)
JUDGE

27.05.2025
sjks

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