

2025:PHHC:048157



112

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

CWP-9681-2025

Date of Decision: 05.04.2025

Pawan Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. H.K. Brinda, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

HARSH BUNGER J. (ORAL)

Petitioner (Pawan Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 10.08.2018 (Annexure P-3) passed by the learned Divisional Commissioner, Rupnagar and order dated 25.07.2024 (Annexure P-5) passed by the learned Financial Commissioner, Punjab.

2. Briefly, on account of demise of Sh. Amar Singh, previous Lambardar (Scheduled Caste) of Village Dangoli, Tehsil and District Rupnagar; proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the aforesaid vacancy, eight applications (including the one submitted by the petitioner and another by respondent No.3) were received.

2.1 The learned Naib Tehsildar, Rupnagar; learned Tehsildar, Rupnagar as well as learned Sub Divisional Magistrate, Rupnagar recommended the name of respondent No.3 (Gurdeep Singh) for appointment to the post of Lambardar and the matter was forwarded to the learned Collector, Rupnagar.

2.2 The learned Collector, Rupnagar, after considering the relative merits and demerits of the candidates, appointed the petitioner (Pawan Singh) as Lambardar (Scheduled Caste) of Village Dangoli, vide order dated 23.01.2018 (Annexure P-2).

2.3 Feeling aggrieved against the aforesaid order dated 23.01.2018 (Annexure P-2), respondent No.3 (Gurdeep Singh) preferred an appeal before the learned Divisional Commissioner, Rupnagar, which was allowed vide order dated 10.08.2018 (Annexure P-3) and the matter was remanded to the learned Collector, Rupnagar, for fresh decision.

2.4 Being dissatisfied against the aforesaid order dated 10.08.2018 (Annexure P-3), petitioner (Pawan Singh) preferred a revision petition (ROR No.650 of 2018) before the learned Financial Commissioner, Punjab, which came to be dismissed vide order dated 25.07.2024 (Annexure P-5).

3. In the aforementioned circumstances, petitioner has filed the present writ petition before this Court, seeking relief(s) as noticed hereinabove.

4. Heard.

5. In the instant case, despite the fact that name of respondent No.3 (Gurdeep Singh) was recommended by the Lower Revenue Officers for appointment to the post of Lambardar; the learned Collector, Rupnagar, appointed the petitioner (Pawan Singh) as Lambardar (Scheduled Caste) of

Village Dangoli, vide order dated 23.01.2018 (Annexure P-2), by observing as under:-

“ - x - x -

3. After carefully going through the record on file and hearing submission of the candidates/Councils, it is found that the vacancy of Lambardar belongs to Schedules Caste. Candidate Sh. Pawan Singh is the son of the deceased Lambardar (S.C.), he is also having a hereditary claim. It is correct that according to the law, even if a candidate has a hereditary claim, the comparative merit of the other candidates has to be seen. Candidate Sh. Pawan Singh was appointed Sarbarah Lambardar of his father Nambardar Sh. Amar Singh by order dated 09.01.2008 (Misal) No:01/Nambardari presented dated: 04.01.2008) by the previous officer of this Court, at that time (Sh. Pawan Singh) was about 55 years of age. Thus, this candidate has done Lambardari work for a period of more than 7 years and 10 months till the death of his father on 20.11.2015 and no such facts/documentary evidence has come on file to prove that this candidate (Mr. Pawan Singh) has not performed the Lambardari work properly nor has the subordinate court in its reports given any such adverse remarks against this candidate as to why this candidate is not eligible for post of Lambardari, whereas as per the records on file there are no complaints/suits/case etc. is not recorded and neither any documentary evidence regarding illegal occupation of Government land has come on the miscl, whereas documentary evidence has come on the miscl regarding the filing of a complaint against the candidate Sh. Gurdeep Singh. Similarly, the facts regarding registration of FIR against the candidate Sh. Swaran Singh have come on record. Even though the complaint/FIR are not yet decided, they cannot be declared guilty nor does it have any effect on their candidature. Sufficient evidence regarding illegal possession of panchayat land has come on record against the third candidate, Sh. Surinderjit Singh, but there is no such fact

on record against the candidate, Sh. Pawan Singh. At present, the age of the candidate Sh. Pawan Singh though is about 66 years but he has served as Sarbarah of his father since the age of 55 until his father passed away. He appears to be physically/mentally fit right now, these facts cannot be ignored. Because this candidate (Sh. Pawan Singh) has complete knowledge of work of Lambardari and for doing good job in police department, he has also received appreciation certificate from higher officers of his department. This candidate is also familiar with administrative work, which is beneficial for the villagers. Thus this candidate (Sh. Pawan Singh) is more eligible candidate in comparative merit than other candidates. He also has 13 acres of land, even though the land is not seen at the time of appointment of Scheduled Caste Lambardar but having land is also a good status. Regarding the over-age of the candidate, one such case (ROA No.:41/2017 Institution dated 24.07.2017 (titled Jaswinder Singh vs. Karam Chand etc.) in which the fresh candidate (fresh candidate) i.e. the one who had was sarbarah earlier and his age was more than 70 years, his appointment as Lambardar was upheld by the Honorable Financial Commissioner, Revenue, Punjab vide order dated 27.09.2017. CWP No.:22975 of 2017 (Parties Jaswinder Singh Vs. FCR and ors.) filed in the Hon'ble Punjab and Haryana High Court against this order of the Hon'ble Financial Commissioner, Revenue, Punjab was also dismissed by the Hon'ble High Court vide order dated 07.11.2017. In the light of these facts, I do not agree with the reports/recommendations of the subordinate Courts and keeping in mind the said judgments of the Hon'ble High Courts, the candidate Sh. Pawan Singh son of late Sh. Amar Singh is appointed as new Lambardar (S.C.) of Village Dangoli H.B: No.:344, Tehsil and District Rupnagar in place of his father Deceased Lambardar (S.C.) Sh. Amar Singh son of Sh. Baru Singh. The order was pronounced. File be consigned to record room."

5.1 A perusal of the aforesaid findings returned by the learned

Collector, Rupnagar shows that the petitioner was appointed as Lambardar (Scheduled Caste) of Village Dangoli, primarily on the ground that he was the son of previous Lambardar. Further, the learned Collector had although observed that petitioner was more than 70 years of age, however, he still proceeded to appoint him as Lambardar.

6. The appeal filed against the aforesaid order dated 23.01.2018 (Annexure P-2) was allowed by the learned Divisional Commissioner, Rupnagar vide order dated 10.08.2018 (Annexure P-3) and the matter was remanded to the learned Collector, Rupnagar, for deciding the matter afresh.

Relevant extract thereof reads as under:-

“ - x - x -

4. After hearing the pleas and going through record on file, I reached at conclusion that the objection of appellants are:

i. The lower Courts recommended his name but the Collector without giving any reason ignored the recommendation of lower Court.

ii. He is much younger and energetic than the appointed Lambardar.

iii. The appointed lambardar belongs to political group and does work of connected people while his is politically neutral.

5. These objections carry weight. So, I accept the appeal, remand the case with directions to Collector to decide the case after re-hearing the parties.

6. So, the appeal is allowed and case is remanded. Miscd after compliance be consigned to Record Room.”

6.1 A perusal of the aforesaid order would show that the same was passed by taking note of the objections raised by respondent No.3 (Gurdeep Singh) that his name was recommended for appointment to the vacant post of Lambardar by the Lower Revenue Officers; and also, he was younger in age than the present petitioner.

6.2 The Divisional Commissioner's order dated 10.08.2018 (Annexure P-3) was further upheld by the learned Financial Commissioner, Punjab, vide order dated 25.07.2024 (Annexure P-5).

7. In my considered view, the learned Divisional Commissioner has rightly remanded the matter to the learned Collector for fresh consideration and decision on the matter as the petitioner was appointed as Lambardar by the learned Collector only on the ground that he is the son of previous Lambardar and has also acted as Sarbarah Lambardar, and therefore, he has gained experience regarding the lambardari work. It needs no reiteration that the hereditary claim has been held to be ultra vires the Constitution by a Division Bench of this Court in "*Karnail Singh v. The State of Haryana etc.*", 1973 PLJ 676'.

7.1 Furthermore, presently, the petitioner is about 77 years of age and the Hon'ble Supreme Court in "*Mahavir Singh v. Khiali Ram and others*", 2009(1) RCR (Civil) 757, has held that age of a candidate is a relevant factor in the matter of appointment for the post of Lambardar.

8. Keeping in view the aforesaid facts and circumstances, I find no compelling reason to interfere with order dated 10.08.2018 (Annexure P-3) passed by the learned Divisional Commissioner, Rupnagar; which has been further upheld by the learned Financial Commissioner, Punjab, vide order dated 25.07.2024 (Annexure P-5). Resultantly, the instant writ petition fails and the same is accordingly dismissed.

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

05.04.2025
Apurva

(HARSH BUNGER)
JUDGE

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|--------------------------------|--------|
| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |