

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on: 31.05.2025

Pronounced on: 08.08.2025

WP(C) No. 384/2023

1. Radesh Kumar

Aged 50 Years, S/O Late Sh.

Daya Ram, R/O Village Chhurta,

Tehsil Dansal, District Jammu. Appellant(s)/Petitioner(s)

Through: Mr. S. M. Chowdhary, Advocate.

Vs

**1. The Union Territory of Jammu and
Kashmir**

Th. Commissioner/Secretary, Revenue
Department, Civil Secretariat,
Jammu/Srinagar.

**2. The District Collector (Deputy
Commissioner), Jammu.**

**3. The Tehsildar/Executive Magistrate
1st Class, Tehsil Dansal, District
Jammu.**

**4. The Naib Tehsildar, Naibat Jhajjar
Kotli, Tehsil Dansal, District
Jammu.**

5. Babu Taver Kumar
(Temporary Lamberdar) S/O Bansi
Lal, presently R/O Village Chhurta,
Tehsil Dansal, District Jammu

6. Sohan Lal,
S/O Daya Ram R/O Village Sandrote,
Panchayat Janakha, Tehsil Dansal,
District Jammu Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The petitioner was appointed as Lamberdar of Village Chhurta, Tehsil Dansal, District Jammu by the District Collector, Jammu vide order dated 11.07.2019. It is stated that the deceased father of the petitioner

was one of the co-owners/co-sharers in possession of Shamlat Deh Maqbooza Malkan land falling in Survey No. 1391 of village Chhurta and during his lifetime, he had constructed two shops about 25 years ago over a piece of land measuring 4 Marlas mentioned above as one of the co-sharers. On 03.01.2022, the respondent No. 6 filed an application with respondent No. 3, complaining therein that the elder brother of the respondent No. 6, namely, Mohan Lal had forcibly retained his two shops situated near Convent School Chhurta and sought action against him. Pursuant to the directions of respondent No. 3, an enquiry came to be conducted by Naib Tehsildar, Jhajjar Kotli-respondent No. 4 along with Patwari concerned. The respondent No. 4 reported to respondent No. 3 that two shops have been found to be constructed on Survey No. 1391 of the abovementioned village and one shop is under possession of Sohan Lal and the other is in possession of Radesh Kumar i.e. the petitioner herein. The respondent No. 4 further stated that reference of mutation No. 541 has been found in respect of land measuring 5 Marlas of village Chhurta falling under Survey No. 1391 min, but the mutation is not forthcoming from the record. The respondent No. 3, by placing reliance upon the enquiry report of respondent No. 4 placed the petitioner under suspension till further orders and directed the respondent No. 4 and SHO, Police Station, Jhajjar Kotli to dispossess the petitioner from the said shop constructed on Survey No. 1391 and Kamal Singh Lambardar of Kalu Band was given the additional charge of village Chhurta vide order dated 29.06.2022.

2. Aggrieved of the order dated 29.06.2022 passed by the respondent No. 3, the petitioner preferred an appeal before the Collector/Additional Deputy Commissioner, Jammu, who vide order dated 08.07.2022 set-aside the order dated 29.06.2022 and remanded the matter back to the respondent No. 3 for passing fresh orders. The petitioner claims to have conveyed the order dated 08.07.2022 to respondent No. 3 through virtual mode and the hard copy of the same was furnished to him subsequently requesting the respondent No. 3 to initiate fresh enquiry in terms of order dated 08.07.2022, but instead of conducting enquiry as directed in terms of order dated 08.07.2022, the respondent No. 3, in terms of order dated 08.07.2022, recommended dismissal of the petitioner from the position of Lambardar of village Chhurta to the respondent No. 2. After receiving order of remand, the respondent No. 3 issued notice to father of the petitioner, namely, Daya Ram, aged 95 years, to appear before him on 27.09.2022. Father of the petitioner appeared before respondent No. 3 and his statement was recorded, wherein he had stated that he had constructed two shops in Survey No. 1391 and one shop is in possession of Radesh Kumar and another is in possession of Sohan Lal for the last about 20 to 25 years and about 2 Marlas of land is lying vacant which has been assigned to Mohan Lal and Jagdish Kumar. Thereafter, the respondent No. 3, on 17.10.2022 upheld his own order dated 29.06.2022. The respondent No. 3 issued order dated 21.02.2023, whereby the respondent No. 5 was temporarily appointed as Lambardar of village Chhurta in violation of order passed by the Additional Deputy Commissioner, Jammu dated

08.07.2022, whereby the matter was remanded to the respondent No. 3 for conducting fresh enquiry. On 31.01.2023, the petitioner preferred second appeal before the court of Additional Deputy Commissioner, Jammu against the impugned recommendation dated 08.07.2022 made by the respondent No. 3 and order dated 21.02.2023, whereby the respondent No. 5 was appointed as temporary Lambardar of village Chhurta by the respondent No. 3. Both these appeals are still pending adjudication before the Additional Deputy Commissioner, Jammu. It is stated that on 24.07.2022, a meeting of prominent persons of village Chhurta was held in which about 91 people participated, and they unanimously requested the Deputy Commissioner (District Collector) Jammu to reinstate the petitioner on his position, as the petitioner is hard worker and has been suspended by the Tehsildar Dansal on false complaint submitted by his opponents.

3. The petitioner has assailed the orders dated 08.07.2022, 17.10.2022 and 21.01.2023 on the following grounds:

- i. That the order dated 29.06.2022 passed by the respondent No. 3 was set-aside by the Additional Deputy Commissioner, Jammu and the respondent No. 3 was directed to provide opportunity of hearing to the deceased father of the petitioner and the petitioner i.e. the appellants therein but they were not heard by the respondent No. 3 while passing the order impugned.
- ii. That the order dated 08.07.2022 passed by the Additional Deputy Commissioner, Jammu was conveyed to the respondent No. 3 on the same date and on the same day, without conducting

any enquiry, in terms of order dated 08.07.2022 passed by the Additional Deputy Commissioner, Jammu, the respondent No. 3 recommended for dismissal of the petitioner.

- iii. That the statement of father of the petitioner was recorded by respondent No. 3, which is self-explanatory, but it appears that the respondent No. 3 has not gone through the statement recorded by him in its right perspective.
- iv. That a perusal of the order impugned dated 21.01.2023 reveals that the respondent No. 3 has not gone through the circular upon which he has placed reliance while making temporary appointment of respondent No. 5 as the temporary vacancies are required to be filled up only after proper verification of antecedents and credentials, because the respondent No. 5 cannot read and write Urdu, as such, was not eligible to be appointed as Lambardar.

4. The respondent No. 3 has filed response, stating therein that he got the in-depth enquiry conducted by the field staff and statements of inhabitants of village Chhurta were recorded and as per statements it was found that the petitioner had lost credibility and support of the inhabitants of village Chhurta as Lambardar of the village, as a result of which, he was placed under suspension as per relevant provisions and rules of J&K Lambardari Act. It is further stated that as per statements of the villages, the legal heirs of Malu were having the possession on the said land since time immemorial and Pukhu S/O Malu wilfully handed over the possession of 5 Marlas of land to Sohan

Lal S/O Daya Ram in the year 1997-98 for construction of shops. Ram Lal S/O Kashmiri was the concerned man with whose help, the shops were constructed in the year 1997-98 and even Ram Lal himself revealed that the said shops were constructed by him as per request of Sh. Sohan Lal S/O Daya Ram. Inhabitants of the village further revealed that Sohan Lal S/O Daya Ram was peacefully running the two shops after the construction till 03.01.2022 and on the said date during evening, one shop was encroached upon and taken possession of illegally and forcibly by persons, namely, Mohan Lal, Radesh Kumar, Jagdish Kumar all sons of Daya Ram. Rakesh Kumar S/O Maan Chand, a specially-abled person also submitted that he was sitting in the shop on 03.01.2022 and the above-mentioned persons barged into the shop and took control of one of the shops illegally and forcibly. It is further stated that recommendation was made by respondent No. 3 to the higher authorities for dismissal of the petitioner as per J&K Lambardari Rules, 1980 and further that in compliance to order dated 08.07.2022, fresh summons were issued to father of the petitioner on 24.08.2022 and after recording the statement of father of the petitioner, it became crystal clear that the petitioner's father was not having any stake in the matter and his claim was not satisfactory. Thereafter, order dated 17.10.2022 was passed. It is further stated that new Lambardar has been appointed on temporary basis for village Chhurta.

5. The respondent Nos. 5 and 6 have also filed response, stating therein that inhabitants of village Chhurta made the representation that the

petitioner was not appointed as Lambardar with the consent of inhabitants of village Chhurta. It is further stated that the petitioner was not entitled to stake any claim for the post of Lambardar on account of his ineligibility because he was not having any property/land in his name in the said village Chhurta. Private respondents have in fact defended the orders passed by the respondent No. 3.

6. Heard and perused the record.
7. A perusal of order dated 11.07.2019 reveals that the petitioner was appointed as temporary Lambardar of village Chhurta, Tehsil Dansal, District Jammu and his appointment was confirmed by the Deputy Commissioner, Jammu. This is also admitted fact that the petitioner was placed under suspension vide order dated 29.06.2022 and the said order was set-aside by the Additional Deputy Commissioner, Jammu vide order dated 08.07.2022 and further, the respondent No. 3 in terms of order dated 08.07.2022 recommended dismissal of the petitioner, regarding which, the petitioner preferred an appeal, as is averred in Para (13) of the writ petition. The petitioner has also filed an appeal against the order dated 21.02.2023, whereby the respondent No. 5 has been appointed as temporary Lambardar.
8. In fact, the official respondents are themselves responsible for non-enforcement of the Lambardari Act and Rules framed thereunder. This Court has come across almost 100 cases, wherein Lambardars were appointed on temporary basis, but they continued for years together and as such, they nurtured an impression that they have got vested

right to continue as Lambardars, notwithstanding the fact that they were never elected as Lambardar under the Lambardari Rules, 1980. In terms of Lambardari Rules, a Lambardar can continue in Office for a period of five years or till he attains the age of 60 years. Strangely, the petitioner himself was appointed as temporary Lambardar vide order dated 11.07.2019, but just because the official respondents have not conducted the elections for the post of Lambardar, not only in the village of the petitioner but also other villages, persons like the petitioner have continued to work as Lambardar for years and rather decades together, despite the fact that they were appointed only temporarily.

9. In Bashir Ahmed Teli versus State of J&K & Ors. bearing OWP 1809/2017, this Court has held that the Lambardar appointed on temporary basis does not have vested right to continue as Lambardar till elections are held. Vide order dated 22.02.2023, all the orders impugned in this petition were kept in abeyance but subject to objections from the other side. This is also admitted fact that two appeals are pending before the respondent No. 2, as such, any adjudication on merits may have bearing upon the appeals sub-judice before the Deputy Commissioner, Jammu.

10. In view of the above, this writ petition is disposed of, along with the connected application, if any, by directing the respondent No. 2 to decide the appeals preferred by the petitioner within a period of one month from the date of receipt of certified copy of this order and further the official respondents are directed to conduct elections for the

post of Lambardar within a period of three months from the date of receipt of certified copy of this order. The respondent No. 1 is further directed to ensure compliance of J&K Lambardari Act and rules framed thereunder, within the Union Territory of Jammu and Kashmir in its letter and spirit.

11. Disposed of.

(RAJNESH OSWAL)
JUDGE

Jammu
08.08.2025
Sahil Padha

Whether the order is speaking:	Yes/No.
Whether the order is reportable:	Yes/No.

