



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

CWP-21450-2016 (O&M)
Date of Decision: 07.03.2025

MAMMAN @ MAJLIS

...Petitioner

Versus

FINANCIAL COMMISSIONER, REVENUE, HARYANA
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Kamal K. Chaudhary, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, A.A.G., Haryana.

Ms. Sulvangi Sharma, Advocate
for Mr. Ashwani Gaur, Advocate
for respondent No.5.

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 02.05.2016 (Annexure P-7) passed by the learned Financial Commissioner, Haryana.

2. Briefly, upon demise of Sh. Abdul Rahim, previous *lambardar* of Village Nehada, Tehsil Punhana, District Mewat (Nuh), proceedings were initiated for filling up the vacancy. In pursuance of the proclamation made in the village, three applications (including the one submitted by the petitioner-Mamman @ Majlis and respondent No.5-Yakub) were received.

2.1 The learned Assistant Collector 2nd Grade, Punhana

recommended the candidature of petitioner-Mamman @ Majlis for appointment to the afore-said vacancy and the matter was placed before the learned Collector, Mewat (Nuh).

2.2 The learned Collector, Mewat (Nuh) vide order dated 12.10.2011 (Annexure P-2), appointed petitioner-Mamman @ Majlis as the *Lambardar* of Village Nehada.

2.3 Feeling aggrieved against the Collector’s order, the respondent No.5-Yakub preferred an appeal before the learned Commissioner, Gurgaon Division, Gurgaon; however, the same was dismissed vide order dated 17.01.2013 (Annexure P-4).

2.4 Still aggrieved, the respondent No.5-Yakub preferred a revision petition (***ROR-183 of 2012-13***) before the learned Financial Commissioner, Haryana, which came to be allowed vide order dated 02.05.2016 (Annexure P-7) and the matter was remanded to learned Collector, Mewat (Nuh) for fresh decision.

2.5 Hence, the present writ petition before this Court.

3. Heard.

4. According to the learned counsel appearing for the respective parties, the following merits were submitted on behalf of the petitioner and respondent No.5 before the learned Collector :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Mamman @ Majlis)</i>	<i>Respondent No.5 (Yakub)</i>
<i>1</i>	<i>Age</i>	<i>36 years</i>	<i>40 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>8th Class pass</i>	<i>8th Class pass</i>
<i>3</i>	<i>Land holding/s</i>	<i>5 acres</i>	<i>4.5 acres</i>
<i>4</i>	<i>Recommended by</i>	<i>Assistant Collector 2nd Grade, Punhana</i>	
<i>5</i>	<i>Other remarks</i>	<i>Produced four certificates of Family Planning cases.</i>	<i>Produced two certificates of Family Planning cases.</i>

4.1 A bare perusal of the above-said comparison of the candidates would indicate that the present petitioner has an edge over respondent No.5 inasmuch as that the petitioner is younger in age than respondent No.5 and also owns slightly more land than respondent No.5. Further, the lower Revenue Officers had recommended the candidature of the petitioner for appointment to the post of *lambardar*. Even, the learned Collector, after finding the petitioner as the suitable candidate, appointed him as the *lambardar* and the Collector's order was further upheld by the learned Commissioner.

4.2 The learned Financial Commissioner has set aside the order passed by the learned Collector as well as learned Commissioner and remanded the case to the learned Collector, Mewat (Nuh) for fresh decision on merits, by observing as under :-

"I have considered the arguments advanced by the counsel of the petitioner and have perused the relevant record of the case and have also examined the impugned orders. After examining the record and comparative merit of both the candidates it is found that the Commissioner Gurgaon and Collector Mewat have not properly appreciated the merits of both the candidates. Undue benefit has been given to the respondent while appointing him as the Lambardar of the village. It is necessary that Collector Mewat look into the merits in both the candidates and decide after comparing the merits of both the candidates. It would appropriate that both the candidates be given opportunity to explain their claim for the appointment of Lambardar of the village. In view of the discussion as made above, the revision petition filed by the petitioner is allowed and the orders dated 17.01.2013 of Commissioner, Gurgaon and order dated 12.10.2011 of Collector, Mewat are set aside. The

case is remanded to Collector Mewat (Nuh) of fresh decision on merits.”

4.3 A perusal of the above extracted findings returned by the learned Financial Commissioner, would indicate that no reasons have been recorded for remanding the matter to the learned Collector, Mewat (Nuh) for fresh decision.

5. In my considered view, the order passed by the learned Financial Commissioner, is unsustainable in the eyes of law, especially in view of the well settled law that the choice of Collector in the matter of appointment of *Lambardar* is not to be lightly interfered with, even if two views are possible, unless there is any patent illegality or perversity therein. (See *Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273*).

5.1 That apart, the petitioner herein, is younger in age and the Hon'ble Supreme Court in case of '*Mahavir Singh v. Khiali Ram and others*', *2009(1) RCR (Civil) 757*, has held that the age of a candidate is a relevant factor for appointment to the post of *Lambardar*.

5.2 Further, the name of the petitioner was also recommended by the Assistant Collector 2nd Grade, Punhana. Although, the recommendation of lower Revenue Official(s) is not binding on learned Collector, 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 vs Financial Commissioner (Revenue), Punjab, 2016(4) RCR (Civil) 335* and *Atma Singh vs The Financial Commissioner, Revenue, Punjab, 2016(1) LAR 592*.

6. Considering the totality of circumstances, I am of the considered view that the learned Collector, Mewat (Nuh) had rightly appointed the petitioner as the *lambardar* of Village Nehada, Tehsil Punhana, District Mewat (Nuh), which was further upheld by the learned Commissioner, Gurgaon; however, the learned Financial Commissioner, had wrongly set aside the said orders. Resultantly, the instant writ petition is allowed and order dated 02.05.2016 (Annexure P-7) passed by the learned Financial Commissioner, is set aside and the order dated 12.10.2011 (Annexure P-2) passed by the learned Collector, Mewat (Nuh), appointing petitioner-Mamman @ Majlis as *Lambardar* of Village Nehada, Tehsil Punhana, District Mewat (Nuh), is maintained.

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

March 07, 2025

gurpreet

(HARSH BUNGER)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No