

**CWP-10528-2014 and
CWP-16118-2014**

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

Date of Decision:05.11.2015

1. CWP-10528-2014

Deep Ram

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

AND

2. CWP-16118-2014

Vikas Kumar

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. G.S. Sandhu, Advocate for the petitioner
in CWP No. 10528 of 2014 and for
respondent No.6 in CWP-16118-2014.

Mr. C.M. Munjal, Advocate for the petitioner
in CWP No. 16118 of 2014 and for respondent No.5
in CWP No. 10528 of 2014.

Mr. Sandeep S. Mann, Sr. D.A.G., Haryana.

Mr. C.L. Sharma, Advocate for respondent No. 4
in CWP No. 10528 of 2014 and for respondent
No.5 in CWP No. 16118 of 2014.

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Paramjeet Singh, J. (Oral)

This order shall dispose of CWP-10528-2014, titled as 'Deep Ram vs. State of Haryana and others' and CWP-16118-2014, titled as 'Vikas Kumar vs. State of Haryana and others' as common questions of fact and law are involved in both these petitions.

CWP-10528-2014 has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 29.01.2014 (Annexure P-3) passed by respondent No.1-Financial Commissioner, Haryana whereby the order dated 03.08.2012 (Annexure P-2) passed by respondent No.2-Commissioner, Ambala Division, Ambala, appointing the petitioner as Lambardar, has been set aside.

CWP-16118-2014 has been filed under Articles 226/227 of the Constitution of India for setting aside the orders dated 29.01.2014 (Annexure P-8), dated 03.08.2011 (Annexure P-7) and dated 08.03.2011 (Annexure P-6).

Before proceeding further, a brief reference to the facts is necessary which are being extracted from CWP-10528-2014.

Brief facts of the case are that to fill up the vacancy caused on account of death of Sonu, Lambardar (SC) of village Tagra Hakimpur, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, 11 candidates submitted their applications out of which eight candidates withdrew their candidature and three candidates i.e. petitioner-Deep Ram, respondent

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No.4-Geeta Ram and respondent No.5-Vikas Kumar left in the fray. The Collector after appreciating the comparative merit of the candidates found respondent No.4-Geeta Ram to be fit and suitable candidate and vide order dated 08.03.2011 (Annexure P-1) appointed him as Lambardar of village. Being dissatisfied, the petitioner and respondent No.5 preferred two separate appeals before respondent No.2-Commissioner, Ambala Division, Ambala, who dismissed the appeal filed by respondent No.4-Vikas Kumar, however, accepted the appeal filed by the petitioner-Deep Ram vide order dated 03.08.2011 (Annexure P-2). Thereafter, respondent Nos.4 and 5 filed two separate revisions before respondent No.1-Financial Commissioner, who set aside the order dated 03.08.2011 passed by respondent No.2-Commissioner, Ambala Division, Ambala and upheld the order dated 08.03.2011 (Annexure P-1) passed by respondent No.3-Collector, Panchkula. Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner in CWP-10528-2014 and for respondent No.6 in CWP-16118-2014 vehemently contends that the petitioner has studied upto 5th standard. The petitioner has also deposited ₹10,000/- under small saving scheme. The Sub Divisional Officer-cum-Assistant Collector-Ist Grade has also made recommendation in favour of the petitioner. Respondent No.1-Financial Commissioner has set aside the order dated 03.08.2011 (Annexure P-2)

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passed by respondent No.2 only on the ground that the petitioner does not have minimum qualification for the post of Lambardar.

Per contra, learned State counsel and learned counsel for respondent No.4 in CWP-10528-2014 and for respondent No.5 in CWP-16118-2014 vehemently oppose the contentions of learned counsel for the petitioner and support the impugned order. It is contended that the petitioner does not fulfill the qualifications as prescribed under Rule 15 of the Punjab Land Revenue Rules (as applicable to Haryana) according to which a person must be literate, preferably middle pass.

Learned counsel for respondent No.5 in CWP-10528-2014 and for the petitioner in CWP-16118-2014 vehemently opposed the contentions of learned counsel for the petitioner and contended that the impugned orders passed by the authorities are not sustainable in the eyes of law. The Gram Panchayat and Assistant Collector-IIInd Grade made recommendations in favour of respondent No.5. Respondent No.5 is more meritorious than petitioner and respondent No.4. Respondent No.5 has passed L.L.B and has also computer knowledge. The petitioner does not fulfil the requisite minimum qualification. The comparative merit of the petitioner, respondent Nos.4 and 5 has not been taken into consideration by the revenue authorities.

I have considered the rival contentions of learned counsel for the parties.

Respondent No.3-Collector, Panchkula appointed respondent No.4-Geeta Ram, vide order dated 08.03.2011 (Annexure P-1) by

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recording the following findings:

“I have perused the file thoroughly and have heard the candidates and their councils. Sh. Geeta Ram is an educated person. He is having his own house in the village and he is permanent resident of the village. Sh. Geeta Ram being an educated person can do the work of lambardari in good manner. So, while disagreeing with the recommendation of SDM-cum-Assistant Collector Ist Grade Kalka, Sh. Geeta Ram son of Sh. Jaimal, resident of Village Tagra Hakimpur, Tehsil Kalka, District Panchkula is being appointed as Lambardar in place of Sh. Sonu Ram Lambardar since deceased under S.C. Category. The file be consigned to record room after compliance.”

Perusal of findings recorded by the Collector reveals that comparative merit of the candidates has not been taken into consideration in view of provisions as mentioned in Rules 15 and 19-B of the Punjab Land Revenue Rules (as applicable to Haryana). Similarly, there is no reference to the comparative merit in the orders passed by respondent Nos.1 and 2.

In view of above, the orders dated 29.01.2014, 03.08.2011 and 08.03.2011 passed by respondent Nos.1 to 3, respectively, are set aside. The matter is remanded to respondent No.3-Collector, Panchkula with a direction to decide the matter afresh, in accordance with law, specifically in view of provisions as mentioned in Rules 15 and 19-B of the Punjab Land Revenue Rules (as applicable to Haryana). It is made clear that if

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the Collector finds that none of the candidates is suitable, he will be at liberty to issue fresh proclamation.

Parties through their counsel are directed to appear before respondent No.3-Collector, Panchkula on 07.12.2015.

Disposed of.

05.11.2015

kanchan/parveen kumar

**(Paramjeet Singh)
Judge**