

CWP No.10728-2014

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

CWP No.10728-2014

Date of Decision: 24.02.2015

Anoop

... 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. Nipun Vashist, Advocate,
for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Mr. S.S.Khurana, Advocate,
for respondent no.4.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 19.09.2012 (Annexure P-1) passed by respondent no.3-Collector, Rewari whereby respondent no.4-Rajender Singh has been appointed Lambardar of village Bhagwanpur and orders dated 22.08.2013 (Annexure P-2) and 04.03.2014 (Annexure P-3) whereby appeal and revision filed by the petitioner have been dismissed by respondent no.2-Commissioner,

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Gurgaon Division, Gurgaon and respondent no.1-Financial Commissioner, Haryana, respectively.

Brief facts of the case are that to fill up the vacancy caused on account of death of Sardar Singh, Lambardar (Harijan) of village Bhagwanpur, District Rewari, applications were invited from interested persons by making publication/proclamation in the village after obtaining necessary sanction from the Collector. In response to the proclamation, six persons including the petitioner and respondent no.4 applied for the post of Lambardar out of which petitioner, respondent no.2 and one Om Parkash were left in the fray as remaining were proceeded against *ex parte*. The Assistant Collector-IIInd Grade and Assistant Collector-Ist Grade, Rewari recommended the name of respondent no.4-Rajender Singh for the post of Lambardar. After completion of all the formalities, matter came up for consideration before the Collector. The Collector after appreciating the comparative merit of the candidates appointed respondent no.4 as Lambardar of the village vide impugned order dated 19.09.2012 (Annexure P-1). Aggrieved against the order of the Collector, the petitioner filed an appeal before respondent no.2-Commissioner, Gurgaon Division, Gurgaon, who dismissed the same vide impugned order dated 22.08.2013 (Annexure P-2). Against that, the petitioner preferred revision before respondent no.1-Financial Commissioner, Haryana, who dismissed the same vide impugned order dated 04.03.2014 (Annexure P-3). Hence, this writ petition.

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

Learned counsel for the petitioner has vehemently contended that Below Poverty Line (BPL) Card has been wrongly issued in favour of respondent no.4 despite the fact that he owns some land and is financially independent. Respondent no.4 is having five children. Learned counsel further contended that the petitioner is more meritorious than respondent no.4, therefore, impugned orders may be set aside.

Per contra, learned State counsel and learned counsel for respondent no.4 have vehemently opposed the contentions of learned counsel for the petitioner and support the impugned orders. Learned counsel further contended that B.P.L. Card has been rightly issued by the department.

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

A perusal of the record shows that District Collector after appreciating the comparative merit found respondent no.4 to be fit and suitable candidate and appointed him as such. In view of law laid down by Hon'ble the Supreme Court of India in the case of ***Mahavir Singh Vs. Khiali Ram & others***, 2009(3) SCC-439, ***Lila Ram Vs. Asa Ram***, 1995 Lahore Law Times-29 followed by Division Bench of this Court in the case of ***Phool Kumar Vs. State of Haryana and others***, 2010(2) RCR (Civil) 819, the choice of the District Collector cannot be lightly

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set aside. It can only be set aside if there is perversity or illegality in the impugned order of the Collector. Learned counsel for the petitioner has not been able to point out any perversity or illegality in the order passed by the District Collector. The finding of the District Collector has been affirmed by the Commissioner and Financial Commissioner.

In *Mahavir Singh's case (supra)*, the Hon'ble Supreme Court of India has observed that there should be no interference with the choice made by the Collector in the matter of appointment of Lambardar even if two views are possible. It is only the prerogative of the Collector to compare the merits of the candidates for appointment to the post of Lambardar. All the authorities have concurrently found respondent No.4 as fit and suitable candidate.

Learned counsel for the petitioner has failed to show that B.P.L. Card has been wrongly issued in favour of respondent no.4. The Financial Commissioner, Haryana has recorded a finding that B.P.L. Card has been issued to respondent no.4 after assessing the score as provided under the guidelines and instructions of the Social Welfare, Department. It has also been rightly recorded that a person having land can legally get a B.P.L.Card issued in his favour, if his total score does not cross 10. Moreover, to challenge validity of B.P.L. Card only lies with the issuing authority. Till date, no order has been passed by the issuing authority that respondent no.4 got the B.P.L. Card issued by fraud. So far as the contention of the learned counsel for the petitioner that he is having five children, same is insignificant. There is no bar in

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the Punjab Land Revenue Act, 1887 or Lambardari Rules that a person having five children, cannot be appointed as Lambardar.

In view of above discussion and concurrent findings recorded by authorities below with regard to suitability of respondent no.4, present writ petition fails.

Dismissed.

No costs.

24.02.2015
parveen kumar

(Paramjeet Singh)
Judge