

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

CWP-1542-2014

Date of decision : 10.03.2015

SUKHBIR SINGH

...Petitioner

V/S

STATE OF HARYANA & ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Sourav Mohunta, DAG, Haryana

JITENDRA CHAUHAN, J. (Oral)

The present petition filed under Articles 226 of the Constitution of India for issuance of writ in the nature of certiorari for setting aside the order dated 30.12.2013, (Annexure P-4) passed by the respondent No.1 and order dated 28.07.2009, (Annexure P-1) passed by respondent No.3 and upholding the order dated 27.01.2010 (Annexure P-2) passed by the respondent No.2.

The post of Lamberdar fell vacant on the death of the Scheduled Caste Lamberdar of Village Garhi Mundo and applications were invited to fill up the post. The petitioner as well as respondent No.4 applied for the post of Lamberdar. Upon considerations, the relative merits of both the candidates, vide order dated 28.07.2009 (Annexure P-1) the name of the respondent No.4 was recommended by the respondent

No.3 for the said post.

Against the order passed by respondent No.3, the petitioner filed an appeal before the respondent No.2 which was allowed vide order dated 18.08.2010. Thereafter, vide order dated 27.01.2010 (Annexure P-2), the said order was upheld by the respondent No.1-Financial Commissioner and petitioner was appointed on the said post.

Feeling aggrieved, respondent No.4 approached this Court by filing CWP No.19431 of 2010 and vide order dated 26.07.2011 (Annexure P-3), order dated 27.01.2010 was set aside and the case was remanded back to respondent No.1. Thereafter, vide order dated 30.12.2013 (Annexure P-4), respondent No.1 set aside the order passed by the respondent No.2 and appointed the respondent No.4 on the post in question.

Learned counsel for the petitioner states that the petitioner is more meritorious and suitable candidate as compared to the respondent No.4 in view of his higher qualification i.e 10+2 and contribution i.e Rs.29,000/- towards small savings for the welfare of the community. Whereas respondent No.4 is middle pass and his contribution being Rs.25,000/- is far less.

On the other hand, learned State counsel informs that the petitioner's academic qualification is better than the respondent No.4 but the petitioner had been facing trial in FIR No.277 dated 21.07.2012 under Section 13-A/3/67 of Gambling Act and another FIR No.180 dated

25.05.2012 under Section 323, 324, 34, 325 IPC at the relevant time.

Learned counsel for the petitioner submits that petitioner stands acquitted by Ld. Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri vide judgment dated 01.10.2014 in FIR 277 dated 21.07.2012 registered under Section 13A of the Gambling Act.

Heard.

In view of the duties assigned to the the Lamberdar under the Act, he plays a crucial role in the village life. On account of his key role the Lamberdar otherwise also influences the village community. Therefore, the antecedents of the Lamberdar are of a great significance. The petitioner has been facing the trial in FIR No.180 dated 25.05.2012 under Section 323, 324, 34, 325 IPC, whereas, he stands acquitted in FIR 277 dated 21.07.2012 registered under Section 13A of the Gambling Act. The academic qualification does not confers a special merit upon the petitioner when he is facing trial in FIR No.180 dated 25.05.2012 under Section 323, 324, 34, 325 IPC.

The Lamberdar along with Sarpanch and other members of the village community are the leaders of the village community. Therefore, it is of the prime importance that the person who occupies the post of Lamberdar is of clean antecedents.

The petitioner is 10+2 whereas, the respondent No.4 is a middle pass. It needs to be reflected that the respondent No.4 fulfills the minimum qualification prescribed for the office.

Keeping in view the fact that the petitioner is facing trial in the FIR No.180 dated 25.05.2012 under Section 323, 324, 34, 325 IPC, respondent No.4 is a better candidate as compare to the petitioner and the judgment passed by the respondent No.1 does not suffer from any perversity.

Accordingly, the present writ petition is dismissed.

10.03.2015
ashok

(JITENDRA CHAUHAN)
JUDGE