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

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Date of Decision: 15.12.2015

Vijay Kumar 7

... 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. Aman Pal, Advocate,
 for the petitioner.

Mr. Rajneesh Chadwal, DAG, Haryana.

Mr. Arvind Singh, Advocate,
 for respondent No.2.

Paramjeet Singh, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 10.11.2014 (Annexure P-3) passed by respondent No.1-Financial Commissioner whereby orders dated 11.01.2012 (Annexure P-1) passed by the Collector, Panipat and dated 19.10.2012 (Annexure P-2) passed by the Commissioner, Rohtak Division Camp at Panipat, appointing the petitioner as Lambardar, have been set aside and respondent No.2- has been appointed as Lambardar.

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Brief facts of the case are to the effect that to fill up the vacancy caused on account of death of Rati Ram, Lambardar (S.C.), village Chhichhrana, Tehsil Israna, District Panipat, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, seven candidates submitted their applications out of which three candidates withdrew their applications and ultimately, four candidates i.e. (i) Sarla Devi, (ii) Vijay Kumar (petitioner), (iii) Rajender Parshad (respondent No.2) and (iv) Vishnu Dutt remained in fray. Naib Tehsildar and S.D.O (C), Panipat recommended the name of Sarla Devi for the post of Lambardar. The Collector after appreciating the comparative merit of the candidates found petitioner-Vijay Kumar to be fit and suitable candidate and vide order dated 11.01.2012 (Annexure P-1) appointed him as Lambardar of the village. Feeling aggrieved, three unsuccessful candidates including respondent No.2 preferred three separate appeals before the Commissioner, Rohtak Division, Rohtak which have been dismissed vide order dated 19.10.2012 (Annexure P-2). Against that, respondent No.2 preferred revision before respondent No.1-Financial Commissioner, Haryana which has been allowed and appointed respondent No.2 as Lambardar vide impugned order dated 10.11.2014 (Annexure P-3). Hence, this writ petition.

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

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Learned counsel for the petitioner vehemently contended that the impugned order is based on conjectures and surmises. Respondent No.1 has not appreciated the fact that a criminal case was pending against respondent No.2 in which he has been acquitted by giving the benefit of doubt. The choice of Collector in appointing Lambardar cannot be set aside unless there is illegality or perversity in the order. Learned counsel further contended that respondent No.2 has been appointed only on the ground that he remained as a Sarbarah Lambardar of village, but the same is not sustainable in the eyes of law. The petitioner is more meritorious than respondent No.2.

Per contra, learned State counsel and learned counsel for respondent No.2 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned order. Respondent No.2 has performed the duties of Sarabrah Lambardar, therefore, he has experience to perform the duties of Lambardar.

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

A reference to the relevant Rule 15 of the Punjab Land Revenue Rules, as applicable in the State of Haryana, for appointment of Village Headman, would be beneficial to decide the controversy. The said rule reads as under:-

“15. Matters to be considered in first appointments- *In all first appointments of headman, regard shall be had among other matters to-*
(a) his hereditary claims;

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(b) extent of property in the estate possessed by the candidate;

(c) services rendered to the State by himself or by his family;

(d) his personal influence, character, ability and freedom from indebtedness;

(e) the strength and importance of the community from which selection of a headman is to be made;

(f) services rendered by himself or by his family in the national movements to secure freedom of India.

In case of an ex-headman of an estate or sub-division thereof in the territory now comprising the State of Haryana who had resigned or was dismissed on account of his participation in a national movement before partition and another headman was appointed in his place, the present incumbent of the post shall be removed irrespective of the provisions of rule 16 and the ex-headman would be appointed in his place if he has not rendered himself unfit for appointment for any of the reasons given in Rule 16 except imprisonment for a political offence before 15th August, 1947. In case the ex-headman is no longer alive, a person of his family who would under the Rules have been entitled to be headmen if the resignation or dismissal had not intervened, would be appointed as headman. But when no such person exist there would be no need to remove the existing Lambardar;

(g) services rendered by himself to the community and development programmes;

(h) he shall be not less than 21 years of age at the time of inviting the application for the appointment of Lambardar;

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(i) he should be literate, preferably middle pass.”

While appointing Lambardar, there is no criteria that all the parameters should be fulfilled by a candidate. Only the bare minimum qualification is to be taken into consideration and choice to find out a suitable candidate lies with the Collector only. The District Collector after appreciating the comparative merits of the petitioner and respondent No.2 and others found the petitioner-Vijay Kumar to be fit and suitable candidate for the post of Lambardar and appointed him as such. The finding recorded by the Collector has been affirmed by the Commissioner, Ambala Division, Ambala.

However, vide impugned order dated 10.11.2014 (Annexure P-3), learned Financial Commissioner has found that respondent No.2, being Ex-Serviceman and Sarabrah Lambardar, is more meritorious than the petitioner in every aspect and set aside the orders passed by the Collector and Commissioner. Respondent No.1-Financial Commissioner also held that respondent No.2 has already been acquitted in criminal case much before the process of appointment of Lambardar.

In view of the fact that choice to find out a suitable candidate lies with the Collector only, the impugned order dated 10.11.2014 (Annexure P-3) is set aside and matter is remanded to the Collector, Panipat to re-consider the comparative merits of the candidates as pointed out by learned Financial Commissioner. Parties through their counsel are directed to appear before the Collector on 07.01.2016 and they will be at liberty to raise all the pleas before the

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Collector, who shall pass the order in accordance with law prior to 31.03.2016. Till the passing of order by the Collector, status quo will be maintained regarding the performance of duties of Lambardar.

No order as to costs.

15.12.2015
parveen kumar

(Paramjeet Singh)
Judge