

CWP No.21505 of 2013

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

CWP No.21505 of 2013
Date of decision: 15.10.2015

Iqbal Khan

....Petitioner

Versus

State of Haryana and others

....Respondents

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. S.S. Dinarpur, Advocate, for the petitioner.
Mr. Sandeep S. Mann, Sr. DAG, Haryana.
Mr. Baldev Singh, Advocate, for respondent No.4.

PARAMJEET SINGH, J.

Instant civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 28.05.2013 (Annexure P-4) passed by Financial Commissioner, Haryana, whereby order dated 25.05.2011 (Annexure P-2) passed by Collector, Yamuna Nagar, whereby respondent No.4 was appointed Lambardar of the village, has been restored and the order dated 15.05.2012 (Annexure P-3) passed by Commissioner, Ambala Division, Ambala, has been set aside.

Brief facts of the case are that to fill up the vacancy caused on account of death of Pritpal Singh, Lambardar of Village Kot Basawa Singh, Tehsil Chhachhrauli, District Yamuna Nagar, applications were

CWP No.21505 of 2013

invited from interested persons by making publication/proclamation in the Village after obtaining necessary sanction from the Collector. After completing formalities, matter came up for consideration before the Collector. The Collector after appreciating the comparative merit of the candidates found Iqbal Singh – petitioner to be fit and suitable candidate and vide order dated 17.06.2010 (Annexure P-1) appointed him as Lambardar of the Village. Respondent No.4 – Kirtan Singh filed an appeal before the Commissioner. The Commissioner vide order dated 21.12.2010 remanded the case back to the Collector for fresh decision. After remand, vide order dated 25.05.2011 (Annexure P-2) Collector appointed respondent No.4 as Lambardar of the Village. Against the order of the Collector, petitioner preferred appeal before the Commissioner, which was allowed vide order dated 15.05.2012 (Annexure P-3) and petitioner was appointed as Lambardar of the Village. Aggrieved against the order of the Commissioner, respondent No.4 filed revision before the Financial Commissioner, which has been allowed vide order dated 28.05.2013 (Annexure P-4), order of the Commissioner has been set aside and respondent No.4 has been appointed as Lambardar of the Village. Hence, instant writ petition.

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

Learned counsel for the petitioner contended that order dated 25.05.2011 (Annexure P-2) passed by Collector and order dated 28.05.2013 (Annexure P-4) passed by Financial Commissioner are

CWP No.21505 of 2013

illegal, unjust, arbitrary and against the Rules. The impugned orders have been passed without taking into consideration the merits and demerits of both the candidates i.e. petitioner and respondent No.4. Petitioner is more meritorious and qualified than respondent No.4. Impugned orders, being perverse and against the law, are liable to be set aside.

On the other hand, learned counsel for respondent No.4 contended that the impugned orders are sustainable in the eyes of law. Respondent No.4 is the son of the deceased Lambardar. He is conversant with the working of Lambardari as he remained sarbarah Lambardar. Respondent No.4 has good reputation in the Village as he remained Sarpanch of the Village for two times. The writ petition is liable to be dismissed.

I have considered the contentions raised by learned counsel for the parties.

So far as contention of the learned counsel for respondent No.4 that he remained sarbarah Lambardar is concerned, same is not sustainable as there is no evidence on record that respondent No.4 was ever appointed as sarbarah Lambardar at any point of time and ever acted as such. Thus, he cannot be supposed to be conversant with the functioning of Lambardari. Petitioner has edge over respondent No.4 as petitioner is 44 years of age and respondent No.4 is an old person of 60 years. Moreover, petitioner is matric pass and respondent No.4 is only 8th pass. Respondent No.4 was involved in a criminal case, whereas

CWP No.21505 of 2013

petitioner is the person of clean image. Although respondent No.4 is stated to have been acquitted in the criminal cases, however, he cannot be given preference in comparison to a person of clean image. Thus, order dated 28.05.2013 (Annexure P-4) passed by Financial Commissioner, Haryana, is not sustainable in eyes of law.

In view of above, present writ petition is allowed. Order dated 28.05.2013 (Annexure P-4) passed by Financial Commissioner, Haryana, is set aside and order dated 15.05.2012 (Annexure P-3) passed by Commissioner, Ambala Division, Ambala, whereby petitioner has been appointed Lambardar, is restored.

No order as to costs.

(Paramjeet Singh)
Judge

October 15, 2015
R.S.