

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 22213 of 2015

Date of Decision: October 15, 2015

Paramjit Singh

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Anshuman Narula, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

Instant petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 27.04.2011 (Annexure P/1) passed by Collector, Kurukshetra, appointing respondent no.2 – Jai Bhagwan as Scheduled Castes Lambardar of Village Gadli, Sub Tehsil Ladwa, order dated 09.11.2011 (Annexure P/2) passed by Commissioner Ambala Division, Ambala and order dated 27.11.2013 (Annexure P/3) passed by Financial Commissioner, Haryana whereby appeal and revision, respectively, filed by the petitioner have been dismissed.

Schedule Castes category of Village Gandli, Sub Tehsil Ladwa, Tehsil Thanesar, District Kurukshetra was created and applications were invited. The Collector, after appreciating the comparative merit of the candidates found Jai Bhagwan – respondent no.2 to be fit and suitable candidate and vide order dated 27.04.2011 (Annexure P/1) appointed him as Lambardar of the village. Against the order (Annexure P/1), petitioner preferred an appeal before the Commissioner. The Commissioner, Ambala Division, Ambala vide order dated 09.11.2011 (Annexure P/2) dismissed the appeal. Thereafter, petitioner preferred an R.O.R. before the Financial Commissioner, which has also been dismissed vide order dated 27.11.2013 (Annexure P/3). Hence, instant writ petition.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner vehemently contends that demarcation report has not been considered by the authorities. Respondent no.2 is in illegal possession of panchayat land. Learned counsel further contends that respondent no.2 is 70% physically handicapped, so he is not able to perform the duties of the Lambardar.

I have considered the contentions raised by learned counsel for the petitioner and perused the record.

The categorical finding of fact has been recorded by the

Collector that Jai Bhagwan is not in unauthorized possession of any part of the panchayat land. Said finding has been affirmed by the Commissioner as well as the Financial Commissioner. As such, contention of the learned counsel for the petitioner that respondent no.2 is in illegal possession of the panchayat land is devoid of merit.

So far as the second contention that respondent no.2 is 70% physically handicapped is concerned, the same is also without merit for the reason that he was entitled to same rights as other able bodied persons. Respondent no.2 should not feel that he has been deprived of the right because of his handicap-ness rather he has rightly been encouraged in full participation in social life and development. Imaginary social barriers in the society hamper their full participation. Principle of equality before law is equally applicable to handicapped person. Otherwise also, there is no provision in the Act and Rules which debars a physically handicapped or disabled person from occupying the post of Lambardar.

All the revenue authorities have found respondent no.2 fit and suitable for appointment as Lambardar.

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 set aside.

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. In the present case, there are concurrent findings recorded by the revenue authorities upholding the choice 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 Collector. The findings of the Collector have been affirmed by the Commissioner as well as Financial Commissioner.

In view of above discussion, the present writ petition fails.

Dismissed in limine. No order as to costs.

October 15, 2015
vkd

[Paramjeet Singh]
Judge