

CWP No.26633-2013

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

CWP No.26633-2013

Date of Decision:29.09.2015

Shamsher Singh

... Petitioner(s)

Versus

State of Punjab 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. Ranjit Saini, Advocate,
for the petitioner.

Mr. S.S.Chandumajra, Addl. A. G. Punjab.

Mr. Surinder Sharma, Advocate,
for respondent No.5.

Paramjeet Singh, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 21.12.2006 (Annexure P-4) passed by respondent No.4-District Collector, Hoshiarpur, whereby respondent No.5 has been appointed as Lambardar of village Bechuhar, Tehsil Mukerian, District Hoshiarpur and orders dated 22.01.2008 (Annexuure P-5) passed by respondent No.3-Commissioner, Jalandhar Division, Jalandhar and dated 22.02.2013 (Annexure P-8) passed by respondent No.2-Financial Commissioner, Punjab, whereby appeal and revision, respectively, filed by the petitioner

CWP No.26633-2013

have been dismissed.

Brief facts of the case are that to fill up the vacancy caused on account of death of Dharam Singh, Lambardar of village Bechuhar, Tehsil Mukerian, District Hoshiarpur, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, 5 candidates including petitioner and respondent No.5 submitted their applications. During the proceedings before the District Collector, the petitioner and respondent No.5 levelled allegations against each other that they were taking part in political activities. Thereafter, the District Collector ordered SDO (C) to verify the claim of both the parties. The SDO (C), Mukerian submitted his report that petitioner-Shamsher Singh was involved in active politics. On the basis of report made by the SDO (C), Mukerian and after appreciating the comparative merit of the candidate, the District Collector, Hoshiarpur appointed respondent No.5 as Lambardar, vide impugned order dated 21.12.2006 (Annexure P-6). Feeling aggrieved, the petitioner preferred an appeal before the Commissioner, Jalandhar Division, Jalandhar which was dismissed vide impugned order dated 22.01.2008 (Annexure P-5). Being dissatisfied, the petitioner filed revision before the Financial Commissioner, Punjab which has also been dismissed vide impugned order dated 22.02.2013 (Annexure P-8). Hence, this writ petition.

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

CWP No.26633-2013

Learned counsel for the petitioner contended that the petitioner is more meritorious and suitable candidate than respondent No.5 for the post of Lambardar. The petitioner is 59 years old and is a retired teacher. The petitioner has also served the society by participating in literacy campaign. The petitioner is not involved in active politics and has been wrongly ignored by the Collector on the ground that he is a Secretary of a political party. The impugned orders are not sustainable in the eyes of law and are liable to be set aside.

Per contra, learned State counsel and learned counsel for respondent No.5 vehemently opposed the contentions of learned counsel for the petitioner and contended that the petitioner is working as General Secretary of B.J.P and the report of S.D.M confirmed it. The impugned orders passed by the authorities are based on the law.

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

A perusal of the record shows that the District Collector directed the SDO (C), Mukerian to verify whether the petitioner and respondent No.5 were involved in political activity. Thereafter, SDO (C), Mukerian submitted his report vide letter No.2722/Reader dated 10.11.2006 to the effect that respondent No.5-Raghunath Sahai had no link with any political party, however, petitioner-Shamsher was linked with BJP and he was general secretary of the local block. The District Collector after appreciating the report submitted by the SDO (C), Mukerian found respondent no.5 to be fit and suitable candidate for the

CWP No.26633-2013

post of Lambardar 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 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.

In view of above discussion and concurrent findings recorded by authorities below with regard to suitability of respondent no.5, present writ petition fails.

Dismissed.

No order as to costs.

29.09.2015
parveen kumar

(Paramjeet Singh)
Judge