

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

CWP No.24663 of 2015(O&M)
Decided on: 11.12.2015

Malkit Singh

.... Petitioner

vs.

State of Punjab & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Ms. Riffi Birla, Advocate
for the petitioner.

G.S.Sandhawalia, J.(Oral)

The challenge in the present writ petition is to the appointment of respondent No.4 vide order dated 12.02.2014 (Annexure P-1) by the Sub-Divisional Magistrate, Fazilka and the order dated 06.08.2015 (Annexure P-2) passed in appeal by the Deputy Commissioner whereby the petitioner's appeal was dismissed and the validity of the appointment of respondent No.4 as Chowkidar of Village Tahliwala Jattan was upheld.

Counsel for the petitioner has vehemently submitted that the Panchayat deed (Annexure P-3) was in his favour and that the same was not taken into consideration while appointing respondent No.4, who was not even better qualified than the petitioner, who is Matric pass.

Perusal of the order passed by SDM, who is the authorized officer of the Deputy Commissioner, would go to show that the reasoning was that the said candidate was more intelligent and intellectual out of 3 candidates, who remained in the race for the post of Chowkidar. He noticed that he did not have any immoral character and did not participate in any partisanship and had not been punished. The appeal was dismissed on the same reasoning that though respondent was less qualified than the remaining candidates but there was no need of

interference.

Rule 8 of The Punjab, Chowkidari Rules, 1876 provides that the person, which is so nominated after the due inquiry into his age, character and ability be appointed on the discretion of the Deputy Commissioner and some officer authorized by him in that behalf.

Perusal of the appointment order would go to show that the SDM had personally interacted with the three aspirants and come to a conclusion that the private respondent was a better candidate. A subjective assessment was made by the officer at grass-root level, who interacted with all the candidates.

In such circumstances, interference by this Court only on the ground that the petitioner is better qualified would not a valid ground for interference. The principles, which have been laid down for appointment of Lambardar under Punjab Land Revenue Act, 1887 would also be similar wherein it has been categorically held that the Collector for the appointment of the Head man is the best agency. Until the appointment is patently illegal or against the rules and there is apparent disqualification of the candidate interference is not to be made.

Keeping in view the above principle, this Court finds that there is no scope for interference in the impugned order. Accordingly, the writ petition stands dismissed.

11.12.2015
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(G.S. SANDHAWALIA)
JUDGE