

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

CWP No.4966 of 2015 (O&M)

Date of Order: 08.12.2015

Ram Kanwar

....Petitioner

Versus

Financial Commissioner, Haryana and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Sandeep K. Sharma, Advocate for the petitioner.

Mr. Rajesh K. Sheoran, Addl.A.G, Haryana.

RAKESH KUMAR JAIN, J (ORAL)

Office of Lambardar (General Category) of Village Gijhi, Tehsil and District Rohtak became available on the death of Ram Singh, Lambardar for which the petitioner along with some others filed applications. The Naib Tehsildar recommended the name of one Rajesh Kumar, who was further recommended by the SDO, Sampla to the Appointing Authority i.e Deputy Commissioner-cum-Collector, Rohtak. Vide order dated 22.7.2010, the Collector remanded the case back to the SDO to inquire about residential status of said Rajesh as to whether he is a resident of Gurgaon or Village Gijji. In compliance, the SDO observed that Jagbir Singh and Krishan Lal are in illegal possession of Gram panchayat land, who have constructed their houses and that brother of the petitioner- Ram Kanwar was also found to be in illegal possession of panchayat land by constructing his house. The Collector, vide order dated 26.4.2012, found that none of the candidates i.e Ram Kanwar (petitioner), Jagbir Singh-respondent No.3, Krishan and Rajesh Kumar were eligible for the post of Lambardar. The Tehsildar, Sampla was, thus, directed to re-start the

proceedings after conducting mushtri munadi, inviting the applications from the interested persons for appointment as Lambardar. Aggrieved against this order, the petitioner filed an application before the Divisional Commissioner, Rohtak, which was dismissed on 10.4.2013 and his revision preferred against that order was also dismissed vide order dated 07.8.2014 passed by the Financial Commissioner, Haryana, Chandigarh, hence the present petition.

Learned counsel for the petitioner has submitted that repeated inquiries were made at the instance of the SDO and it has been found that the petitioner himself is not in authorized possession, rather his brother is in possession of panchayat land whereupon he has constructed his house. In the reply filed by respondent No.2, it is admitted that the brother of Ram Kanwar (present petitioner) was in possession of gram panchayat land but there is no allegation against the petitioner that he has been found in possession of panchayat land. Counsel for the petitioner has thus argued that he cannot be penalized for the illegal deeds of his brother as he has no control over his brother because he is residing separately from him within the Lal dora whereas his brother is living outside the Lal dora.

Learned counsel for the State has failed to controvert this argument.

Consequently, present petition is allowed and the impugned orders are set aside. The order dated 26.4.2012 of the Collector, Rohtak is modified only to the extent that in *de novo* proceedings, the Tehsildar, Sampla shall also consider the candidature of the petitioner.

December 08, 2015
manoj

(RAKESH KUMAR JAIN)
JUDGE