

CWP No. 7562-2014

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

CWP No. 7562-2014

Date of Decision: 10.02.2015

Satbir

... Petitioner(s)

Versus

Financial Commissioner, Revenue, 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. Sandeep Thakan, Advocate,
for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Mr. Shokeen Singh Verma, Advocate,
for respondent no.4.

Paramjeet Singh, J.(Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 23.12.2011 (Annexure P-2) passed by respondent no.2-Commissioner, Hisar Division, Hisar whereby appeal filed by respondent no.4-Satyawan has been accepted and case has been remanded to respondent no.3-District Collector, Bhiwani and the order dated 11.11.2013 (Annexure P-3) passed by the Financial Commissioner, Haryana whereby order dated

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23.12.2011 (Annexure P-2) has been upheld.

Brief facts of the case are that to fill up the vacancy caused on account of death of Mauji Ram (Lambardar Backward) of village Karimod, District Bhiwani, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of proclamation, four candidates submitted their applications. During the proceedings, two candidates withdrew their applications. Thereafter, two candidates i.e. petitioner and respondent no.4 were left in the fray. The Assistant Collector-IIInd Grade, Badhar, recommended the name of respondent no.4 for the appointment of Lambardar in place of deceased-Lambardar on 19.04.2011. S.D.M and A.C.Ist Grade, Charkhi Dadri also recommended the name of respondent no.4. The Collector after appreciating the comparative merit of the candidates found petitioner-Satbir to be fit and suitable candidate and vide order dated 05.09.2011 (Annexure P-1) appointed him as Lambardar. Against that, respondent no.4-Satyawan preferred appeal before respondent no.2-Commissioner, Hisar Division, Hisar wherein the order dated 05.09.2011 has been set aside and matter has been remanded to the District Collector, Bhiwani with a direction to decide the matter afresh after verifying the date of birth and educational qualification certificates of the petitioner. Feeling aggrieved, the petitioner filed revision before respondent no.1-Financial Commissioner Haryana which has been dismissed and order dated 23.12.2011 (Annexure P-2) has been upheld. Hence, this writ petition.

I have heard learned counsel for the parties and perused the

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record.

Learned counsel for the petitioner vehemently contends that the petitioner has studied upto 8th standard and is having 73 kanal land. The petitioner has participated in social activities in the village.

Per contra, learned State counsel and learned counsel for respondent no.4 vehemently oppose the contentions of learned counsel for the petitioner and contend that impugned orders are legal and justified.

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

Vide impugned order dated 11.11.2013 (Annexure P-3), respondent no.1-Financial Commissioner, Haryana has recorded categorical finding which reads as under:

“On page 51 of the Lower Court file, Satbir has been shown to be 3rd Grade Pass. On page 101, Satbir has produced a certificate from Adarsh Gyandeep Purav Madhamic Vidhalya, Dorinagar Aligarh which gives his date of birth as 10.10.1974 whereas the Proposal Form of LIC given at page 121-124 gives his date of birth as 2-5-1969. This discrepancy in the date of birth and education qualifications gives rise to suspicion about the genuineness of his claim about his educational qualification. The Commissioner has remanded the case to Collector with the direction to look into the records pertaining to date of birth and educational certificate and decide the case on merit after hearing both the parties.”

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Since there is misreading of material evidence specifically with regard to educational qualification and age, the case has rightly been remanded to the District Collector to verify the facts. If ultimately it is found that the date of birth and certificates of educational qualifications as given by the petitioner are wrong, appropriate order can be passed by respondent no.3-District Collector, Bhiwani. Learned counsel for the petitioner has failed to show that the impugned orders are not based on the evidence available on record. Otherwise also, vide impugned orders, the matter has been remanded to respondent no.3-District Collector, therefore, the same will not affect the rights of the petitioner and still he will be at liberty to represent his case.

Dismissed.

No costs.

10.02.2015

parveen kumar

(Paramjeet Singh)
Judge