

CWP No.9294-2014

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

CWP No.9294-2014

Date of Decision: 24.02.2015

Anant Ram

... Petitioner(s)

Versus

State of Haryana 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. Vikram Singh, Advocate,
for the petitioner.

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

Mr. Jagbir Malik, 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 31.12.2009 (Annexure P-1) passed by respondent no.3-Collector, Karnal whereby respondent no.4-Kaptan Singh has been appointed Lambardar of village Kalheri, Tehsil Gharaunda, District Karnal and orders dated 19.08.2010 (Annexure P-2) and 11.11.2013 (Annexure P-5) whereby appeal and revision filed by the petitioner have been dismissed by respondent no.2-

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Commissioner, Rohtak Division, Rohtak and respondent no.1-Financial Commissioner, Haryana, respectively.

Brief facts of the case are that to fill up the vacancy caused on account of resignation of Bal Kishan, Lambardar (General) of village Kalheri, Tehsil & District Karnal, applications were invited from interested persons by making publication/proclamation in the village after obtaining necessary sanction from the Collector. In response to the proclamation, 18 persons including the petitioner and respondents no.4 to 8 applied for the post of Lambardar out of which seven were left in the fray. The Assistant Collector-IIInd Grade recommended the name of respondent no.5-Parveen Kumar for the post of Lambardar. However, the Assistant Collector-Ist Grade recommended the name of respondent no.4-Kaptan Singh. After completion of all the formalities, matter came up for consideration before the Collector. The Collector after appreciating the comparative merit of the candidates appointed respondent no.4 as Lambardar of the village vide impugned order dated 31.12.2009 (Annexure P-1). Against that, the petitioner and respondents no.5 and 8 filed three separate appeals before the Commissioner, Rohtak Division, Rohtak, who dismissed the same vide impugned order dated 19.08.2010 (Annexure P-2). Against that, the petitioner and respondents no.5 and 8 also filed three separate revisions before the Financial Commissioner which have been dismissed vide order dated 13.12.2010 (Annexure P-3). Aggrieved against the order dated 13.12.2010 (Annexure P-3), the petitioner preferred writ petition before this Court

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which was disposed of vide order dated 30.07.2012 (Annexure P-4). A relevant extract of order dated 30.07.2012 reads as under:

“It is noticed that certain relevant consideration apparently were ignored by the Collector. The choice of the Collector has to be made on the basis of relevant material, which should be taken into consideration. No relevant consideration should be excluded or ignored. The basis on which respondent no.4 is stated to be more suited as had more knowledge about village matters or revenue matters is also not disclosed. Let the Financial Commissioner consider the case in the light of the above observation and decide whether the choice exercised by the Collector is appropriate or not. The order passed by the Financial Commissioner is set aside. The parties through their counsel are directed to appear before the Financial Commissioner on 21.8.2012.”

In pursuance of the order dated 30.07.2012 ((Annexure P-4), the Financial Commissioner, Haryana again considered the respective merits of the petitioner and respondents no.4 and 5 and came to the conclusion that orders passed by the Collector and Divisional Commissioner are legal and valid and ultimately dismissed the revisions vide impugned order dated 11.11.2013 (Annexure P-5). Hence, this writ petition.

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

Learned counsel for the petitioner has contended that the petitioner is having more educational qualification and land than respondent no.4 and ultimately more meritorious than respondent no.4.

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Besides this, the petitioner is a social worker and motivated four family planning cases. The petitioner has also deposited a sum of ₹ 21 lacs in Small Saving Scheme. Learned counsel has made reference to the comparative chart of candidates which reads as under:

<i>Sr. No.</i>	<i>Name</i>	<i>Age</i>	<i>Edu. Qualifi- cation</i>	<i>Landed Property</i>	<i>Family Welfare motivatio n</i>	<i>Social Works</i>
1	Anant Kumar	53	B.A., Diploma in Secretarial practice	9 acres agriculture land	4 cases	₹ 21 lacs (Small Savings), Blood donator, Participates in all activities organized by the Government, Planted trees, Sending poor children in school and Knowledge about revenue record of the village
2	Kaptan Singh	42	Matric	2.5 acres in village Kalheri and 6 acres in village Gudha	3 cases	₹ 9,37,000/- (Small Savings), Active participant in social activities and Knowledge about village and revenue matters
3	Mahabir	33	B.A. B.Ed.	4 kanals in village Kalheri and 2 acres and 4 kanals in village Badst	-	
4	Sunil	28	B.A./J.B. T/P.G.	7 acres in father's name	-	
5	Krishan Chand	38	9 th	17 acres agriculture land	-	
6	Parveen Kumar	34	Matric	-	3 cases	₹ 11,34,0000/- (Small Saving), Undertaken to donate eyes after death, Donate Blood and Home Guard training

Per contra, learned State counsel and learned counsel for

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respondent no.4 have contended that respondent no.4 is equally matured as the petitioner. Respondent no.4 has approximately eight acres land, although situated in two villages. Respondent no.4 has also motivated three cases of family planning and is also performing other social duties. The choice of Collector cannot be lightly set aside. In this case, all the revenue authorities have concurrently recorded findings in favour of respondent no.4.

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

A perusal of the record shows that District Collector after appreciating the comparative merit found respondent no.4 to be fit and suitable candidate 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

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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.

A reference to the relevant Rule 15 of The Punjab Land Revenue Rules as applicable in the State of Haryana ('Rules'- for short) for appointment of Village Headman, would be beneficial to decide the controversy. The said rule reads as under:-

***“15. Matters to be considered in first appointments-** In all first appointments of headman, regard shall be had among other matters to-*

(a) his hereditary claims;

(b) extent of property in the estate possessed by the candidate;

(c) services rendered to the State by himself or by his family;

(d) his personal influence, character, ability and freedom from indebtedness;

(e) the strength and importance of the community from which selection of a headman is to be made;

(f) services rendered by himself or by his family in the national movements to secure freedom of India.

In case of an ex-headman of an estate or sub-division thereof in the territory now comprising the State of Haryana who had resigned or was dismissed on account of his participation in a national movement before partition and another headman was appointed in his

place, the present incumbent of the post shall be removed irrespective of the provisions of rule 16 and the ex-headman would be appointed in his place if he has not rendered himself unfit for appointment for any of the reasons given in Rule 16 except imprisonment for a political offence before 15th August, 1947. In case the ex-headman is no longer alive, a person of his family who would under the Rules have been entitled to be headmen if the resignation or dismissal had not intervened, would be appointed as headman. But when no such person exist there would be no need to remove the existing Lambardar;

(g) services rendered by himself to the community and development programmes;

(h) he shall be not less than 21 years of age at the time of inviting the application for the appointment of Lambardar;

(i) he should be literate, preferably middle pass.”

While appointing Lambardar, there is no criteria that all the parameters should be fulfilled by a candidate. Only the bare minimum qualification is to be taken into consideration and choice to find out a suitable candidate lies with the Collector only. The name of respondent no.4 was recommended by the Assistant Collector-Ist Grade. The Collector has appointed respondent no.4 as Lambardar of village after considering all aspects and recommendations of Assistant Collector-Ist Grade.

In view of above discussion and concurrent findings recorded by authorities below with regard to suitability of respondent no.4, present writ petition fails.

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Dismissed.

No costs.

24.02.2015
parveen kumar

(Paramjeet Singh)
Judge