

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.9820 of 2015

Date of Decision:-18.05.2015

Sarwan Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. G.S. Samra, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Challenge in the present petition is to the orders dated 30.12.2014 (P-3) passed by Assistant Collector Ist Grade, Budhlada whereby respondent no.5-Chuhra Singh @ Chuhar Singh was appointed as Chowkidar Patiala and order dated 25.03.2015 (P-5) whereby appeal filed against the order dated 30.12.2014 (P-3) was dismissed by Collector, Mansa.

Learned Counsel for the petitioner has vehemently argued that the orders passed by the Authorities below suffer from patent illegality and perversity and are liable to be set aside especially on the ground that as per Punjab Chowkidara Rules, 1965, it is the *Lambardar* who gives an opinion about the person who is to be appointed as Chowkidar and his opinion shall prevail with respect to the appointment of a Chowkidar. In the present case, it was the petitioner who was recommended by the *Lambardar* to the post of

Chowkidar, still, the Assistant Collector, Ist Grade, Budhlada, vide its order appointed respondent no.5-Chuhra Singh @ Chuhar Singh as the Chowkidar and, therefore, the impugned orders are liable to be set aside. In support of his contention he has placed reliance upon **Major Singh Vs. Financial Commissioner, Cooperation, Punjab, Chandigarh & Ors. 2009(3) RCR (Civil) 816, Mohinder Singh Vs. State of Haryana & Ors. CWP No.6122 of 2014 Decided on 20.11.2014** and **Balkar Singh Vs. Sub Divisional Magistrate, Dhuri & Ors. CWP No.10809 of 2002 Decided on 26.11.2014.**

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

Before advertng to the controversy involved in the present case it would be apposite to reproduce the relevant rules 6 & 8 of the Punjab Chowkidara Rules, 1965:-

“ Rule 6:- *The nomination to the post of village watchman or of Daffadar shall be made by the village headman and where there are more village headmen than one, the opinion of the majority in number (unless there is some special provision to the contrary in the village administration paper) shall prevail. Where a village watchman or daffadar is to be appointed for a beat comprising more than one village, the opinion of the majority in number of the village headmen in such beat shall prevail. ”*

“ Rule 8:- *The person so nominated shall, offer due enquiry into his age, Character and ability, be appointed or*

*rejected at discretion of such Deputy Commissioner, or by
some officer authorised by him in that behalf. ”*

A perusal of Rule 6 shows that a village headman/ *Lambardar* shall have the power to nominate any watchman for the post and his opinion shall prevail. However, as per Rule 8 of the said Rules, the “discretion” has been given to the Deputy Commissioner or some officer authorized by him in that behalf to conduct an inquiry into his age, character and ability for the post of Chowkidar. Thus, in nutshell, Rule 8 has given the “discretion” to the Deputy Commissioner or any officer authorised by him, to exercise the discretion. Obviously the said discretion has to withstand the judicial scrutiny of the Courts. In the present case, a perusal of the orders Annexures P-3 & P-5 would reveal that the Authorities below had duly exercised the said discretion by duly inquiring into the age, character and ability of the candidates and after scrutinizing the same, came to a conclusion that respondent no.5 Chuhra Singh @ Chuhar Singh was a better candidate for the post of Chowkidar.

The judgments that have been relied upon by the learned Counsel for the petitioner have not considered Rule 8 of the 1965 Rules, which was material for the purpose of deciding the controversy in hand. Thus, the said judgments are distinguishable on the facts as well as law.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

May 18, 2015
Vinay