

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

**Civil Writ Petition No.15367 of 2014
Date of Decision: December 06, 2016**

Ram Kumar

...Petitioner

Versus

The Financial Commissioner, Department of Revenue, Haryana & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Yogesh Chaudhary, Advocate,
for the petitioner.

Mr.Pawan Jhanda, AAG, Haryana.

Mr.O.P.S.Tanwar, Advocate,
for respondent No.4.

RAMESHWAR SINGH MALIK, J.(Oral)

Present writ petition is directed against the order dated 03.06.2013 (Annexure P-5) passed by the Financial Commissioner, Haryana, whereby revision petition filed by the petitioner was dismissed and the appellate orders passed by Commissioner as well as the order by District Collector appointing respondent No.4 as Backward Class Lambardar, were upheld.

Notice of motion was issued and in compliance thereof, short reply was filed by official respondents whereas, separate reply was filed on behalf of respondent No.4.

Heard learned counsel for the parties.

Learned District Collector, Karnal, while passing his order dated 29.05.2012 (Annexure P-2) found the petitioner less than 20 years as per his school certificate, produced at the time of submission of his application for the post of Lambardar. Respondent No.4 was found having clear edge on the petitioner, as per his merits and accordingly, he was appointed as Backward Class Lambardar. Operative part of the order, passed by learned District Collector, which deserves to be noticed here, reads as under:-

“After hearing the counsel for the parties and on perusal of the documents available on record, I have come to the conclusion that candidate Sh.Gulshan Kumar son of Purshotam Dass is more meritorious and fit as compared to the other candidate Sh.Ram Kumar son of Sh.Raj Pal alias Lilu Ram, he is more qualified than candidate Ram Kumar. As per the instructions of the government at the time of submitting the application for appointment on the post of Lamberdar the age of the applicant should be 21 years, whereas the age of Sh.Ram Kumar is less than 20 years as per the certificate produced at the time of submitting application for the post of Lamberdar. Thus, as per the instructions of the Government, Sh.Ram Kumar applicant is not mature and fit candidate for the post of Lamberdar. I do not agree with the report of Naib Tehsildar, Nigdu and Sub Divisional Magistrate (n) Karnal. Thus I appoint Sh.Gulshan Kumar son of Purshotram Dass, caste Barber (Backward class) resident of village Anjanthali, Sub Tehsil Nigdu as the Lamberdar Backward Class of village Anjanthali Sub Tehsil Nigdu District Karnal, on the post fallen vacant after the death of Sh.Neki Ram backward class Lamberdar, village Anjanthali, Sub Tehsil Nigdu. File be

consigned to record room after due compliance.”

Feeling aggrieved, petitioner filed his appeal before the Commissioner which came to be dismissed, vide order dated 21.02.2013 (Annexure P-3). His revision petition also met the same fate when it was dismissed by Financial Commissioner, vide his order dated 03.06.2013 (Annexure P-5).

A combined reading of all the three orders passed by the respondent revenue authorities would make it clear that petitioner was not eligible for applying for the post of Backward Class Lambardar because he was under age. The only argument raised by learned counsel for the petitioner in this regard was that the amendment carried out, vide notification dated 23.07.2008 in Rule 15 of the Punjab Land Revenue Rules, as applicable to Haryana, was not applicable to the candidates, who applied for the post of Backward Class Lambardar because the said amendment was pertaining only to the candidates of general category. Although, there is no such apparent distinction which may lend support to the contention of learned counsel for the petitioner yet even if that is so, no person who was minor and has not attained the age of 21 years at the time of submission of his application for appointment to the post of Backward Class Lambardar would be considered eligible for such an appointment. Further right of appointment is not an indefeasible right. The only right of the petitioner was right of consideration which has been duly granted to him. It is neither pleaded nor argued on behalf of the petitioner that his candidature was not considered. It is a matter of record that candidature of the petitioner was duly considered but he was found

ineligible being under age.

In view of what has been observed herein above, this Court feels no hesitation to conclude that neither any right of the petitioner has been infringed nor any prejudice has been caused to him by passing the impugned orders, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India. None of the impugned orders passed by all the three Revenue Authorities who have recorded the concurrent finding of fact, has been found suffering from any patent illegality or perversity and the impugned orders deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovessaid observations made, present writ petition stands dismissed, however, with no order as to costs.

December 06, 2016

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**(RAMESHWAR SINGH MALIK)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No