

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP No.9138 of 2010
Date of decision:15.12.2016

Som Pal son of Shri Ram Kishan

...Petitioner

Versus

State of Haryana and others

...Respondents

CWP No.11209 of 2010

Sompal son of Sh.Ram Dhari

...Petitioner

Versus

Financial Commissioner, Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.R.C.Chaudhary, Advocate for the petitioner in
CWP No.9138 of 2010.
Mr.H.P.S.Bhinder, Advocate for
Mr.Robin Dutt, Advocate for the petitioner in
CWP No.11209 of 2010.
Mr.Vishal Garg, Addl. A.G., Haryana.
Mr.Vikram Singh, Advocate for respondent-Inder Singh.

RAMESHWAR SINGH MALIK, J. (Oral)

These two identical writ petitions bearing **CWP No.9138 of 2010 and CWP No.11209 of 2010** are being disposed of vide this common order, as both the writ petition are directed against the same impugned orders, whereby Financial Commissioner dismissed the revision petition

filed by both these petitioners and upheld the orders passed by the Commissioner, Rohtak Division, Rohtak, appointing respondent Inder Singh as Lambardar. However, with the consent of learned counsel for the parties and for the facility of reference, facts are being culled out from **CWP No.9138 of 2010 (Som Pal son of Shri Ram Kishan Vs. State of Haryana and others)**.

Notice of motion was issued and in compliance thereof, reply by way of affidavit was filed on behalf of respondents No.1 to 3. Respondent No.4 filed his separate reply. Writ petitions were admitted for regular hearing. That is how, this Court is seized of the matter.

Heard learned counsel for the parties.

Facts are hardly in dispute. Process was initiated for filling up one post of Lambardar in the village of the parties. Finally three candidates were in the fray, who were Sompal son of Ram Dhari, Som Pal son of Ram Kishan and Inder Singh son of Atma Ram. Learned District Collector, Karnal, vide his order dated 8.12.1999 (Annexure P-1) appointed Sompal son of Ram Dhari as Lambardar of General Category. This order was challenged by both the other candidates namely Som Pal son of Ram Kishan and Inder Singh son of Atma Ram, before the learned Commissioner, Rohtak Division, Rohtak, who accepted the appeal filed by Inder Singh, set aside the above-said order passed by the District Collector, Karnal and consequently, Inder Singh was appointed as Lambardar vide order dated 23.11.2000 (Annexure P-2). Two revisions were filed before the Financial Commissioner against the order dated 23.11.2000 passed by the learned Commissioner, Rohtak Division, Rohtak and vide order dated 22.6.2004,

learned Financial Commissioner remanded the cases to the court of Commissioner for a fresh decision.

In compliance of the remand order dated 22.6.2004, learned Commissioner, Rohtak Division, Rohtak, again appointed same candidate namely; Inder Singh son of Atma Ram as Lambardar, vide order dated 17.8.2006 (Annexure P-7). Again, two revisions petitions were filed, one by Som Pal son of Ram Kishan and another by Sompal son of Ram Dhari, before the Financial Commissioner. These two revisions petitions came to be dismissed by the learned Financial Commissioner vide common impugned order dated 9.11.2009 (Annexure P-9), upholding the order dated 17.8.2006 passed by the Commissioner, Rohtak Division, Rohtak. Hence these two writ petitions.

Before proceeding further, it is pertinent to note here that during the pendency of these writ petitions, a status report was filed by Deputy Commissioner, Karnal on 26.4.2016, wherefrom it is clear that Sompal son of Shri Ram Dhari was facing as many as three FIRs bearing No.293 dated 7.10.2008 under Sections 148, 149, 123, 125 and 506 IPC registered at Police Station, Thanesar, FIR No.26 dated 9.4.2010 under Sections 452, 323, 324 and 34 IPC registered at Police Station Dhand and FIR No.541 dated 2.12.1988 under Sections 325, 506 and 34 IPC Police Station Butana.

It was also reported that no criminal case was found registered against Inder Singh son of Atma Ram. So far as third candidate Som Pal son of Ram Kishan is concerned, he was also found involved in a criminal case for the offence punishable under Sections 342, 354 and 506 IPC.

However, learned counsel for the petitioner (Som Pal son of Shri Ram Kishan in CWP No.9138 of 2010) submits that he was released on probation in this case. In this view of the matter, it was only the third candidate Inder Singh son of Atma Ram, who was enjoying clean image and good moral character.

Having said that, this Court feels no hesitation to conclude that the learned Commissioner, Rohtak Division, Rohtak, was well within his jurisdiction to set aside the order passed by the District Collector, whereby Som Pal son of Ram Dhari was appointed as Lambardar. The learned Commissioner, Rohtak Division, Rohtak, recorded cogent findings, before passing the impugned order, which has been found based on sound reasons.

The relevant observations made the learned Commissioner in para 5 of his impugned order dated 17.8.2006, which deserve to be noticed here, read as under:-

“After hearing brief arguments of the counsels from all the sides and perusing through the relevant record/documents brought on the file, the only issue to be decided in these cases is as to whether Shri Inder Singh candidate had encroached upon the Panchayat land or not. The District Collector, Karnal was asked to verify the encroachment by Shri Inder Singh on the land in question. The District Collector, Karnal has sent detailed report of the District Development & Panchayat Officer, Karnal which has been discussed in detail in the foregoing paras. In fact earlier also when this case was agitated before the then Collector, a report from the Block Development & Panchayat Officer, Nilokheri had confirmed similar version that Shri Inder Singh had not actually encroached upon the Panchayat land and in the present case, the District Development & Panchayat Officer has further

given complete background as to why and in which manner the gram panchayat land was exchanged with the land of Shri Atma Ram, Inder Singh etc. to facilitate the villagers for providing a cremation ground close to the village Abadi. In such a situation, the arrangement at the Gram Panchayat level in the absence of a formal sanction from the State Govt. can be termed to be a temporary arrangement and the same in no way can be treated as an encroachment of Shri Atma Ram and his sons including Shri Inder Singh when the land was exchanged for a public cause by the Gram Panchayat. It is an open secret that there is usually factionalism in the villages and whenever there is change in the Gram Panchayat, there is tendency to settle score with the influential people of the village on one pretext or the other. It is exactly the same story being repeated here. It was on this ground that the then Commissioner, Rohtak Division after looking into a similar report from the then BDPO, Nilokheri, rejected the allegation of encroachment against Shri Inder Singh and appointed him as Lambardar after finding him more suitable than the remaining candidates. Since as per the latest report of DDPO, Karnal, who is much more senior to the BDPO, the allegation of encroachment against Shri Inder Singh has against not been proved, I do not find any jurisdiction to make any change in the order of my predecessor through which Shri Inder Singh, candidate was appointed as Lambardar of the said village and the same order is restored back. Both these cases are disposed of accordingly.”

A bare perusal of the above-said order passed by the learned Commissioner, Rohtak Division, Rohtak, would show that a totally baseless allegation was sought to be raised against third candidate Inder Singh son of Atma Ram, regarding his alleged illegal encroachment on the panchayat land. However, it was found to be a case of exchange of land between

father of Inder Singh and Gram Panchayat, thus, plea of illegal encroachment against him could not be substantiated and rightly so, it being a matter of record.

Similarly, learned Financial Commissioner reconsidered the matter in detail, discussed each and every relevant aspect of the matter, including the comparative merits of all the three candidates and rightly came to the conclusion that it was only Inder Singh son of Atma Ram, who was most suitable candidate for appointment to the post of Lambardar. Accordingly, he upheld the above-said order passed by the learned Commissioner, Rohtak Division, Rohtak, vide his impugned order dated 9.11.2009, which also deserves to be upheld.

No doubt, choice of the District Collector, in the matters of appointment of Lambardar, is not to be upset lightly by the higher revenue authorities. However, it is equally true that as and when any order passed by the District Collector is found suffering from patent illegality or perversity, higher revenue authorities would be well within their jurisdiction to set aside such a perverse order. Only that is what has been done by the learned Commissioner as well as Financial Commissioner in the present case. In this view of the matter, it can be safely concluded that the learned Commissioner as well as Financial Commissioner committed no error of law, while passing their respective impugned orders and the same deserve 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 both these writ petitions are wholly misconceived, bereft of merit and without any substance, thus, these must fail. No case for interference has been made out.

Resultantly, with the above-said observations made, both these writ petitions stand dismissed, however, with no order as to costs.

15.12.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No