

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

**CWP No.22754 of 2016
Date of decision: 04.11.2016**

Joginder Singh

... Petitioner

Vs.

Commissioner, Jalandhar Division, Jalandhar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashok Giri, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 25.07.2016 (Annexure P-7) passed by Commissioner, Jalandhar Division, Jalandhar, whereby appeal of the petitioner was dismissed and the order dated 03.06.2014 (Annexure P-6) passed by District Collector, Amritsar, appointing respondent No.3 as Chowkidar of the village, was upheld.

Heard learned counsel for the petitioner.

It is the second round of litigation between the parties. Petitioner approached this Court by way of CWP No.18973 of 2011, which was disposed of vide order dated 16.10.2012 (Annexure P-3), remanding the matter to Deputy Commissioner to consider the recommendation and appoint any suitable person on the basis of material that the parties placed before him.

Facts are hardly in dispute. In compliance of the abovesaid order dated 16.10.2012 passed by this Court, Sub Divisional Magistrate, Ajnala submitted his report dated 23.12.2013 (Annexure P-5) to the Deputy Commissioner, Amritsar recommending the name of respondent No.3 for appointment to the post of Chowkidar. Said report of SDM, Ajnala was considered by District Collector and after considering comparative merits of both the candidates, respondent No.3 was appointed as Chowkidar vide order dated 03.06.2014 (Annexure P-6). Petitioner filed his appeal, which also came to be dismissed by the Commissioner, Jalandhar Division, Jalandhar vide impugned order dated 25.07.2016 (Annexure P-7).

A bare combined reading of the order passed by this Court at Annexure P-3, self-contained report furnished by SDM, Ajnala at Annexure P-5, appointment order dated 03.06.2014 passed by District Collector (Annexure P-6) as well as the appellate order passed by Commissioner at Annexure P-3, would make it crystal clear that none of the respondent authorities have committed any error of law, while passing their respective impugned orders and the same deserve to be upheld.

The operative part of the order dated 16.10.2012 passed by this Court, available at page 30 of the paper book, reads as under: -

“Both the counsels appearing in this case are not clear whether there was any nomination in respect of SDM or not. The appeal filed by the respondent has been allowed by the ADC. In my view, the matter till date has not reached the Deputy Commissioner in any manner. It will be, therefore, appropriate to remand the case

back to the Deputy Commissioner to consider the appointment of the petitioner in the light of the above legal position. It will be for the Deputy Commissioner to consider the recommendation and appoint any suitable person on the basis of material that the parties would place before him.

The writ petition is, accordingly, disposed of.”

In view of the abovesaid directions issued by this Court, District Collector rightly directed the SDM, Ajnala to submit his report, which was accordingly submitted vide Annexure P-5. In strict compliance of the directions issued by this Court, District Collector rightly considered the report submitted by SDM and thereafter, having the comparative study of merits of both the candidates, respondent No.3 was rightly appointed as Chowkidar of the village. It is also a matter of record that petitioner was 65 years of age, whereas respondent No.3 was 46 years of age, as recorded by District Collector in his impugned order, available at page 42 of the paper book.

It is true that age alone would not be the sole criteria for considering the candidature of any candidate for appointment to the post of Chowkidar. However, it is equally true that age is one of the relevant factors to decide the suitability of the candidate. In this regard, reliance can be placed on the judgment of the Hon'ble Supreme Court in **Mahavir Singh Vs. Khiali Ram and others, 2009 (3) SCC 439**. Having said that, this Court feels no hesitation to conclude that District Collector was well justified in passing the impugned order (Annexure P-6), whereby respondent No.3 was appointed as Chowkidar of the village and the same deserves to be upheld, for this reason

also.

The matter was reconsidered by Commissioner, Jalandhar Division, Jalandhar in the appeal filed by the petitioner. The appellate authority did not find any patent illegality or perversity in the order passed by the District Collector and the appeal was rightly dismissed. It is neither pleaded nor argued case on behalf of the petitioner that he was not granted due opportunity of being heard. Further, neither any principle of natural justice has been violated nor any kind of prejudice has been caused to the petitioner, by passing the impugned order, which may warrant any interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

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 present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

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

[RAMESHWAR SINGH MALIK]
JUDGE

04.11.2016

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No