

CWP-25392-2014

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

CWP-25392-2014

Date of Decision: 09.05.2016

Rajwant Kaur

... Petitioner(s)

Versus

Financial Commissioner (Animal Husbandry), Punjab and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

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| 1) Whether Reporters of the local papers may be allowed to see the judgment ?. | YES |
| 2) To be referred to the Reporters or not ?. | YES |
| 3) Whether the judgment should be reported in the Digest ? | YES |

Present: Mr. Deepak Verma, Advocate,
for the petitioner.

Mr. S.S.Chandumajra, Addl. A. G. Punjab.

Mr. Paramjit Rajput, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 08.08.2014 (Annexure P-8) passed by respondent No.1-Financial Commissioner, Punjab whereby order dated 12.10.2009 (Annexure P-4) passed by respondent No.2-Commissioner Jalandhar Division, Jalandhar and the order dated 17.07.2008 (Annexure

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P-3) passed by respondent No.3-District Collector, Hoshiarpur, appointing the petitioner as Lambardar, have been set aside.

Brief facts of the case are to the effect that to fill up the vacancy caused on account of removal of Santa Singh, Lambardar (SC) of village Rajpur Bhaian, Tehsil and District Hoshiarpur, applications were invited from the interested persons by making proclamation in the village after obtaining necessary sanction from the Collector. In furtherance of the proclamation, 6 candidates submitted their applications. The Collector after appreciating the comparative merit of the candidates found petitioner-Rajwant Kaur to be fit and suitable candidate and vide order dated 17.07.2008 (Annexure P-3), appointed her Lambardar (SC) of the village. Feeling aggrieved, respondent No.4-Nasib Chand and one Ram Dass filed separate appeals before respondent No.2-Commissioner, Jalandhar Division, Jalandhar which have been collectively dismissed vide order dated 12.10.2009 (Annexure P-4). Thereafter, Sewa Singh, Ram Dass and respondent No.4-Nasib Chand filed three separate revisions before respondent No.1-Financial Commissioner (Animal Husbandry), Punjab who set aside the order dated 12.10.2009 (Annexure P-4) passed by respondent No.2-Commissioner Jalandhar Division, Jalandhar and order dated 17.07.2008 (Annexure P-3) passed by respondent No.3-Collector and appointed respondent No.4 as Lambardar, vide impugned order dated 08.08.2014 (Annexure P-8). Hence, this writ petition.

I have heard learned counsel for the parties and perused the

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record.

Learned counsel for the petitioner vehemently contended that the impugned order dated 08.08.2014 (Annexure P-8) is not sustainable in the eyes of law. The petitioner has been ignored by respondent No.1 only on the ground that she being a lady would not be able to perform the duties of Lambardar. Respondent No.4 has been preferred being an ex-servicemen. Respondent No.1 has wrongly drawn adverse inference against the petitioner on account of the fact that she did not disclose about her working in the village Library. He further contended that the petitioner, is 32 years old, is younger than all the candidates and has passed matriculation, therefore, she is more meritorious than other candidates.

Per contra, learned State counsel and learned counsel for respondent No.4 vehemently opposed the contentions of learned counsel for the petitioner and supported the impugned order. Respondent No.4 being ex-serviceman, has preferential right for the post of Lambardar.

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

It is a well established principle that a person to be appointed on the post of Lambardar should be enjoying good reputation and unblemished image besides having personal influence in the locality. At the same time he should also be trust-worthy; dedicated, a person of good character and ability, having sincerity to duty and who could

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maintain the dignity of the office of Lambardar. Nothing adverse has been brought on record about these parameters against the petitioner who has been selected by the Collector. While selecting the candidate for the post of Lambardar, it is the Collector who has to weigh and judge the comparative merits and qualifications of the rival candidates and it is he, who has to apply and make up his own mind on the basis of record and arguments placed before him and finally decide about the suitability of the candidate.

Perusal of the impugned order dated 08.08.2014 (Annexure P-8) reveals that respondent No.1 reversed the orders of the Collector and the Commissioner only because petitioner is a woman. This is against the principle of equality enshrined in the Constitution of India and as such, the order passed by respondent No.1 is perverse. Respondent No.1-Financial Commissioner still appears to be living in ancient to medieval age. The role played by the women has seen a paradigm shift from earlier passive to present active participation in social, political and economic fields. The traditional patriarchal mindset which saw woman's role as a home-maker/care-taker is now slowly changing to play decisive roles as banker, managers, bureaucrats, police officers etc. The earlier shackles of gender bias and discrimination are slowly liberating, leading to empowerment of women. Earlier the patriarchal system prevailing in India along with religion and caste had reduced women to marginalized and disadvantaged positions with little say in social, economic and political decisions of life with a handful

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exceptions of few strong women who stood up to societal discriminations and disabilities. Now-a-days in all walks of life, decision making power of women is evident in both rural and urban societies. Now women are politically aware of their rights and duties with ability to break economic and social shackles and barriers like caste system, patriarchy etc. In the light of changing role of women in Indian society and their decision making power, it is imperative for the Indian society to change its mindset regarding women and gender identities. Literacy, formal education, increasing political awareness and influence of globalization have brought the women at par with men, rather in almost every field, they are excelling than men. In view of the changing role of women in Indian society, even reservations, in Panchayats, Municipalities, Legislative Assemblies and Parliament, have been made for them.

As a result of above discussion, findings of the Financial Commissioner are not sustainable in the eyes of law. The petitioner being woman, must be encouraged to participate in the village administration so that she may encourage other village women for participating in various fields and activities of the village. In the present era, we should not consider women weak in any field, rather they should be encouraged to come out of the orthodox belief that they are only home-makers and house care-takers. In the definite opinion of this Court, the petitioner is serving in the village Library on honourarium and

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is a fit and suitable candidate for the post of Lambardar and she cannot be discriminated only on the basis of gender.

Respondent No.1 has also erroneously drawn adverse inference against the petitioner that she had concealed the factum of her job at village library. Perusal of statement (Annexure P-2) deposed by her before Assistant Collector-Ist Grade, Hoshiarpur reveals that she mentioned that she has been given the charge of library established under Block Literacy Society. Moreover, it is not a regular job, she is performing the duties as Librarian at the fixed honourarium of Rs.500/- per month.

It is also pertinent to mention here that petitioner -Rajwant Kaur was 32 years old and respondent No.4 was 55 years old at the time of filing of application. Respondent No.4 is much older in age than the petitioner.

The District Collector after considering the comparative merits of the candidates has rightly appointed the petitioner as Lambardar which has been affirmed by the Commissioner. 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***, 1955 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.

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In ***Mahavir Singh's*** case (supra) the Hon'ble Supreme Court of India has observed that there should be no interference with the 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.

Taking all the factors referred in foregoing paragraphs into consideration and as a sequel of above discussion, the writ petition is allowed and the impugned order dated 08.08.2014 (Annexure P-8) is hereby quashed. The orders dated 12.10.2009 (Annexure P-4) and dated 17.07.2008 (Annexure P-3), appointing the petitioner as Lambardar, are restored with immediate effect, with no order as to costs.

09.05.2016
parveen kumar

(Paramjeet Singh Dhaliwal)
Judge