

CWP-26387-2014

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

**CWP-26387-2014
Date of Decision: 01.04.2016**

Sucha Singh

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

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

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

Present: Mr. Nakul Sharma, Advocate,
for the petitioner.

Mr. B.M.Vinayak, DAG, Punjab.

Mr. Vikram Satpal Anand, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J.(Oral)

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 20.08.2013 (Annexure P-2) passed by respondent No.3-Sub Divisional Magistrate, Zira whereby respondent No.4 has been appointed Chowkidar and the order dated 06.08.2014

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(Annexure P-4) passed by respondent No.2-Collector Ferozepur whereby appeal filed by the petitioner against the order dated 20.08.2013 has been dismissed.

Brief facts of the case are to the effect that to fill up the vacancy of Chowkidar of village Bohran Wali, applications were invited from interested persons through proclamation done by way of beat of drum in the village. In response thereto, Assistant Collector-IIInd Grade, Zira received only two applications i.e. from petitioner-Sucha Singh and respondent No.4-Manna Singh. After verifying the credentials of both the candidates, the Assistant Collector-IIInd Grade, Zira sent the case file to respondent No.3-Sub Divisional Magistrate, Zira, who after hearing the parties appointed respondent No.4 as Chowkidar vide impugned order dated 20.08.2013 (Annexure P-2). Feeling aggrieved, the petitioner preferred an appeal before respondent No.2-Collector who dismissed the same vide impugned order dated 06.08.2014 (Annexure P-4). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

I am constrained to observe that learned counsel for the petitioner did not render any assistance to this Court and was not in a position to refer to the relevant rules.

On the other hand, learned State counsel and learned senior counsel for respondent No.4 vehemently supported the impugned orders.

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Before proceeding further, it would be apposite to reproduce Rule 6 of the Punjab Chowkidar Rules which reads as under:

“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.”

Perusal of Rule 6 makes it clear that village headman/headmen make(s) nomination to the post of village watchman (Chowkidar) and opinion of the majority of the Lambardars (in case there are more than one Lambardar) of the village is a determining factor for nominating watchman (Chowkidar). In the present case, perusal of the impugned orders passed by respondent Nos.2 and 3 reveals that neither opinion of the village headman/headmen (Lambardar/s) was sought nor any special reasons were recorded for appointing Chowkidar. Thus, it is clear that Rule 6 of the Rules has not been complied with by the authorities and the impugned orders are not in consonance with Rule 6 of the Punjab Chowkidar Rules. Accordingly, the impugned orders are held to be not sustainable in the eyes of law.

This Court has also taken similar view in ***Balkar Singh vs.***

Sub Divisional Magistrate, Dhuri and others 2015 (4) PLR 73.

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In view of the above discussion, the impugned orders dated 20.08.2013 (Annexure P-2) and 06.08.2014 (Annexure P-4) are set aside and matter is remanded back to respondent No.3-Sub Divisional Magistrate, Zira with a direction to decide the matter afresh, in accordance with law, within a period of three months from the date of receipt of certified copy of this order.

In the meantime, respondent No.4 shall continue to perform the duties of Chowkidar.

01.04.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge