

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

Civil Writ Petition No.25717 of 2015

Date of decision: 2.2.2016

Kulwant Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.G.S.Dhindsa, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The petitioner's claim is based on the argument that Mrs.Preneet Kaur, Member of Parliament, Lok Sabha and wife of Captain Amrinder Singh [Maharaja Patiala] recommended his name for appointment as a *Sipahi* in Dharam Arth at Burj Baba Ala Singh Kila Andrun, Patiala which has not been translated into action has been rendered infructuous by passage of time.

Dharam Arth at Burj Baba Ala Singh Kila Andrun, Patiala is run by Maharaja Patiala and the appointments are made on his recommendations. The recommendation made by the wife is not binding on Maharaja Patiala. If Maharaja Patiala has taken a conscious decision in 2010 to appoint the private respondent Dev Dutt which has fructified into an

appointment by Punjab Government dated 18.9.2015, it will not give rise to an actionable right to the petitioner to question the appointment made by Punjab Government on the recommendation of Maharaja Patiala.

The core argument raised is that the petitioner is the member of the backward class and he claims reservation on the post of *Sipahi* meant for backward class.

Learned counsel relies on the letter dated 27.8.2010/3.9.2010 informing the Special Secretary, Government of Punjab, Tourism and Social Welfare Department that although there is no provision to fill up the posts with the recommendation of Maharaja Patiala but the salary to the staff deputed in Dharam Arth at Burj Baba Ala Singh Kila Andrun, Patiala is to be paid through Government Exchequer and, therefore, the reservation policy is also applicable.

Article 16(4) of the Constitution of India is an enabling provision as explained in **Indira Sawhney v. Union of India and others**; AIR 1993 SC 477 but that does not mean that the Court would be justified in issuing a mandamus to the State to apply reservation policy on a post which is filled on the recommendations of Maharaja Patiala to run his religious institutions.

When the law permits Maharaja Patiala to make a recommendation, it leaves sufficient discretion in him not to be brushed aside rightly by Court. The recommendations [P-1] from Mrs. Preneet Kaur, Member of Parliament, Lok Sabha addressed to the Director, Cultural Affairs and Archives & Museums, Punjab, Chandigarh is a request as politicians are obliged to make for persons in their constituency and not a

recommendation of binding nature. It is not denied that when the recommendation was made by the Member of Parliament who is the wife of Maharaja Patiala “for appointing him on the vacant post as Govt. policy” on dated 31.12.2002, it is neither a request for appointment as *Sipahi* nor is it binding on the Director. To make things more difficult for the petitioner in Court, the recommendation was made without public advertisement just as the letter process by the petitioner. If the third respondent has not been appointed through public advertisement, it will not make an actionable claim as none of the fundamental rights of the petitioner has been disturbed by the discretionary exercise of authority by Maharaja Patiala.

Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

February 2, 2016

Paritosh Kumar