

CWP No.4700 of 2013

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

CWP No.4700 of 2013 (O&M)

Date of decision: 27.04.2016

Labh Singh

....Petitioner

Versus

State of Haryana and others

....Respondents

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: - None for the petitioner.

Mr. Rajneesh Chadwal, DAG, Haryana.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

CM No.4281 of 2016 under Section 151 of the Code of Civil Procedure has been filed by the applicant/petitioner for staying the process and further proceedings for fresh appointment of Lambardar.

It is stated in the application that respondent No.3 has been dismissed from the post of Lambardar as he was found involved in corrupt practice. It is further stated that since there remains no other candidate except the petitioner, he has a first right to be appointed as Lambardar. It is prayed that the fresh proceedings started by the authorities to appoint Lambardar may be stayed.

Despite repeated pass over, none has appeared on behalf of the applicant/petitioner.

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I have gone through the file. This Court is of the view that in the facts and circumstances of the case, instead of deciding the application it would be appropriate to take up and decide the writ petition itself. Hence, the writ petition is taken up for disposal today itself.

Instant writ petition, which stands admitted, has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 13.4.2011 (Annexure P-1) passed by respondent No.2 – District Collector, Kurukshetra appointing respondent No.3 – Sher Singh as Lambardar of Village Bibipur, Tehsil Thanesar, District Kurukshetra, and the order dated 26.09.2012 (Annexure P-3) passed by respondent No.1 -Financial Commissioner, Haryana, whereby revision petition filed by respondent No.3 was allowed, order passed by District Collector upheld and that of the Commissioner, appointing the petitioner as Lambardar, was reversed.

Brief facts of the case are that to fill up the vacancy caused on account of death of Bakhtawar, Lambardar of Village Bibipur, Tehsil Thanesar, District Kurukshetra, applications were invited from interested persons by making publication/proclamation in the Village after obtaining necessary sanction from the Collector. After completing formalities, matter came up for consideration before the Collector. The Collector after appreciating the comparative merit of the candidates found Sher Singh – respondent No.3 to be fit and suitable candidate and vide order dated 13.04.2011 (Annexure P-1) appointed him as

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Lambardar of the Village. Petitioner – Labh Singh filed an appeal before the Commissioner, Ambala Division, Ambala. The Commissioner vide order dated 27.07.2011 (Annexure P-2) accepted the appeal filed by the petitioner and set aside the order passed by District Collector. Aggrieved against the order of the Commissioner, respondent No.3 filed revision before the Financial Commissioner, which was accepted vide order dated 26.09.2012 (Annexure P-3), whereby order of the Commissioner was set aside and that of the Collector was upheld. Hence, instant writ petition.

Now as per the averments in the application filed by the petitioner, respondent No.3 has been dismissed from the post of Lambardar by the Collector vide order dated 03.07.2015 (Annexure P-9).

A Division Bench of this Court in ***Shamsher Singh v. Financial Commissioner (Revenue), Haryana, 1998(2) R.C.R.(Civil) 474: -***

“This writ petition has been filed against the order of the Financial Commissioner (Revenue), Haryana, Annexure P3 by which the appointment of respondent No.3 as Lambardar, which was done by the Collector, Jind, has been allowed to remain intact as Tek Chand, the other contesting candidate, had died during the pendency of the proceedings. In other words, Khazan Singh, respondent No.3 has been allowed to continue as Lambardar on account of the death of Tek Chand. The order of the Financial Commissioner does not indicate that he examined the merits of the case in his order. After hearing learned counsel for the parties, we are of the view that the proceedings for the appointment of a Lambardar of

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the village should be started de novo in the present case. Admittedly, the claim of Tek Chand could not be examined on merits in view of his death. May be there are better candidates available in the village. It does happen that villagers do not come forward by seeing one candidate or the other in field for appointment for the post of Lambardar. Once one or the other candidate out of the two in field dies, the other candidates may choose to apply for the post. In any case, no Lambardar can be allowed to remain on the post only because the other contesting candidate dies during the pendency of the case. Khazan Singh, respondent No.3 is admittedly working as Lambardar. He is allowed to continue as Lambardar till a fresh decision is taken.”

The ratio of the judgment of Division Bench in ***Shamsher Singh*** (supra) is fully applicable to the present case. Since respondent No.3 has been dismissed from the post of Lambardar, fresh process has to be undertaken for appointment of Lambardar. The authorities are therefore, rightly doing so. In view of this, nothing survives in the writ petition except an academic exercise.

For the reasons mentioned above, the writ petition as well as CM No.4281 of 2016 are dismissed. Respondent No.3 will be at liberty to seek revival of the writ petition if the averments in the application qua his dismissal are found to be incorrect. Respondent No.3 be informed.

(Paramjeet Singh Dhaliwal)
Judge

April 27, 2016
R.S.