

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

1. CWP No.13400 of 2015
Date of decision : 14.02.2017

Hasmat Khan

...Petitioner

Versus

State of Haryana and others

..Respondents

2. CWP No.5712 of 2016
Date of decision : 14.02.2017

Amar Singh

...Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Jamshed Ahmed, Advocate for the petitioner.
(In CWP No.13400 of 2015)
for respondent No.5 (In CWP No.5712 of 2016)

Mr. R.S. Hooda, Advocate for the petitioner
(In CWP No.5712 of 2016) and
for respondent No.6 (In CWP No.13400 of 2015)

Mr. Rajbir Singh, AAG, Haryana.

Mr. Ashwani Bakshi, Advocate for respondent No.4.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two writ petitions bearing

No.13400 of 2015 filed by Hasmat Khan and 5712 of 2016 by Amar Singh challenging the appointment of respondent No.4-Sudhir Kumar as Lambardar.

Learned counsels for the petitioner submit that in pursuance to the death of Lambardar of the Village Kota Karhera, on 04.12.2000, applications were invited for filling up the aforementioned posts. Four candidates including respondent No.4 submitted applications. Respondent No.4 is not resident of Village despite that the Assistant Collector recommended his name. On the basis of recommendation, the Collector vide order dated 01.03.2001 (Annexure P-2), appointed the respondent No.4 as Lambardar. The aforementioned order was assailed by filing an appeal and the matter was set aside by the Commissioner by remanding it back to the Collector with a direction to take decision afresh. After remand, Assistant Collector on 27.09.2002 held an enquiry, though finding given therein that respondent No.4 is not residing in village but permanent resident of the village. Report submitted to the Collector, yet he reiterated the appointment of respondent No.4 vide order dated 30.01.2003 (Annexure P-6). The order of Collector was again challenged by filing appeal before the Commissioner and vide order dated 20.10.2005, the matter was again remanded back. On 26.02.2007, Naib Tehsildar, Nagina submitted report that the respondent No.4 does not have house in the village Kota Karhera but in Nagina situated at 1 ½ Kms from Karhera. Even affidavits of many villagers were submitted before the Enquiry Officer. The Collector while ignoring the aforementioned affidavits, vide order dated 28.11.2007, again reiterated the

appointment of respondent No.4 as Lambardar. Again appeal was preferred before the Commissioner who vide order dated 29.12.2008 set aside the order of Collector and remanded back the matter to him. Respondent No.4 challenged the order of Ld. Commissioner by filing revision petition which has been allowed and therefore the present writ petition. Once the respondent No.4 is not been found to be the resident of Village, he cannot be appointed as Lambardar which is essential requirement. Even reference to voters list has been made.

Mr. Hooda, has also drawn the attention of this Court to the affidavit of Abdul Numberdar of Village Karhera (Annexure P-6 of CWP No.5712 of 2016) and affidavit of Kasam (Annexure P-12 in CWP No.13400 of 2015) to submit that respondent No.4 is not resident of the Village.

He further submits that Commissioner noted the fact that respondent No.4 is resident of Village Nagina yet this aspect has been ignored by the Collector while endorsing the appointment of respondent No.4. Thus, there is fallacy, illegality, much less, perversity.

Per Contra Mr. Ashwani Bakshi, learned counsel appearing on behalf of respondent No.4 relies upon report of Assistant Collector, 2nd Grade, Nagina, District Gurgaon dated 27.09.2002 (Annexure R-4/1), wherein following finding has been recorded:-

“After carefully perusing the file and the evidence available on record and hearing the candidates for the post of Lamberdar I have reached at the conclusion that candidate Sudhir Kumar is owner in possession and self cultivator of

17 acres of land in soda patti, village Karhera Ferozepur and is general power of attorney of 65 acres land in village Karhera Ferozepur, which he cultivates with his own tractor. He has his own tractor and a gun licence. He is a respected person in the village. He has his personal ancestral house in village Karhera Ferozepur where a telephone and electricity meter has been installed. He remains most of the time in Village Karhera. All the residents of Village Karhera Ferozepur wants Sudhir Kumar to be appointed Lamberdar of soda patti, Village Karhera Ferozepur. He is a big biswedat. Earlier his father's elder brother Ram Dass was the Lamberdar of soda patti, village Karhera Ferozepur. During his tenure he has been doing Lamberdari work in association with his uncle. He has full experience of Lamberdari work. Candidates Sh. Hasmat Khan and Amar Singh both are doing job and remain out of village most of the time. Both of them also have very less land as compared to Sudhir Kumar and they have also not deposited any amount in short term saving scheme. Only Amar Singh has deposited Rs.1000/- under the short term saving scheme, whereas Sudhir Kumar has deposited Rs.25,000/- under this scheme. Nasru candidate does not have any land in village Karhera Ferozepur nor he has contributed in the short term saving scheme. This post of Lamberdar is for soda patti of Village Karhera Ferozepur and Sudhir Kumar has 17 acres land in soda patti and is also GPA holder of 65 acres land in village Karhera Ferozepur, which he cultivates himself with tractor. Sudhir Kumar candidate is more meritorious as compared to these three candidates. He is a big biswedat and a respectable person with a good character. He fully cooperates with the govt. and the administration. He has also opened RD accounts, photocopies of which are

attached. He has full experience of Lamberdari work. Therefore, I recommend the name of Sh. Sudhir Kumar son of Atam Parkash resident of Nagina, Caste Punjabi for appointment as Lamberdar in place of Sh. Ram Dass deceased Lamberdar. All the candidates have been instructed to appear in the court of Assistant Collector, Ist Grade, Ferozepur Jhirka on 14.10.2002. Dated 27.09.2002.”

He submits that on the contrary, petitioner Amar Singh is a Teacher and Hasmat Khan is Secretary in Panchayat Gram Sachiv, therefore they would not be available for discharging the duty of Lambardar and asserts that the order of the Collector forming appointment is perfectly legal and justified.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Hooda.

No doubt petitioners who are employees can apply for the appointment to the post of Lambardar but the convenience of the Villagers and availability of the Lambardar is to be seen.

On the contrary, respondent No.4 as per inquiry has been found to be the resident of Village as indicated above. There has not been any single complaint against him as he has been discharging duty as Lambardar since 2001, we are in 2017 yet the petitioners have not been able to satiate their ego vis-a-vis appointment of respondent No.4. It is settled law that recommendation of the Assistant Collector is sacrosanct. This aforementioned view of mine is drawn from the ratio decidendi culled out

by Hon'ble Supreme Court in *Mahavir Singh Vs. Khiali Ram and others*,
2009(3) SCC 439.

It appears that the petitioners are hellbend to seek the appointment on the post of Lambardar without realising the fact that the post of Lambardar requires considerable time/devotion, as Lambardar has to be available at the beck and call of the Villagers, thus, voters list would not have credence.

I do not find any illegality and perversity in the findings rendered by the Collector, much less, reiterated by the Financial Commissioner.

No ground for interference is made out.

Impugned order is perfectly legal, and justified.

Accordingly, both the writ petitions are dismissed.

14.02.2017

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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No