

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

**CWP No.14237 of 2015
Date of Decision.15.05.2017**

Babu Lal son of late Shri Madan LalPetitioner

Vs

State of Haryana and othersRespondents

Present: Mr. Parmod Parmar, Advocate
for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Shiv Kumar, Advocate
for respondent No.7.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioner is aggrieved of the impugned orders whereby respondent No.7-Shyam Singh has been appointed as Lambardar.

Mr. Parmar, learned counsel appearing on behalf of the petitioner submits that consequent upon death of Khichu Lambardar on 18.12.2007, the post of Lambardar of village Kabulpur fell vacant and the process for filling up the post was initiated. Accordingly, proclamation was issued for inviting applications and in response to the same, 13 persons submitted their applications. After verification of the antecedents of the applicants, the Assistant Collector Grade II, Ballabhgarh recommended the name of the petitioner i.e. Babu Lal but the Assistant Collector Grade I recommended the name of respondent No.7-Shyam Singh. The District Collector vide order dated 28.02.2012, erroneously affirmed the finding of Assistant Collector Grade I and appointed respondent No.7 as Lambardar.

Against the aforementioned order, the appeal preferred before

the Divisional Commissioner was accepted and the matter was remanded to the Collector vide order dated 08.07.2013 for fresh consideration.

The Collector on remand, again without any reasonable comparison, illegally appointed respondent No.7 as Lambardar. The appeal preferred against the aforementioned order before the Commissioner was accepted and while setting aside the order of the Collector, the matter was remanded back. The private respondent assailed the aforementioned order in revision petition before the Financial Commissioner whereby the order passed by the Commissioner was set aside vide order dated 22.09.2014 (Annexure P-3), thus, the orders under challenge are not sustainable in the eyes of law.

Comparison between two candidates reveals that the petitioner is more suitable person for appointment being 39 years of age, matric pass with a diploma in Fitter from ITI and more agricultural land than the private respondent. He also contributed in many social activities of the village, which is evident from the character certificates from various organizations such as Anganwadi, Government Primary School, Homeopathic Medicine, G & D Kabulpur Banger etc.

The Collector has ignored the recommendation of Assistant Collector Grade II as respondent No.7 is not a suitable candidate, having less holding than the petitioner and is 44 years of age i.e. 4-5 years older than the petitioner. The authorities below have also ignored the application of the petitioner, though it had been duly submitted within the time frame i.e. 25.03.2008 but the copy of ration card was attested on 26.03.2008 i.e. after the last date of submission of the documents. The petitioner had submitted ration card, identity card of Manav Ekta, Certificate of

Matriculation, ITI Mark Sheet, jamabandi and registers of land and property, NSC and KVS receipts of Post Office, photocopy of passport, three family planning cases and various certificates but the same have been ignored by the authorities vide impugned orders, thus, urges this Court for setting aside the same.

Per contra, Mr. Shiv Kumar, learned counsel appearing on behalf of the private respondent No.7 submits that the private respondent had submitted the ration card, certificate of BA, matric certificate, residential certificate, certificates from Government school, Anganwari, Krishi Vigyan Kendra, AMO and Yuva Sewa Samiti Sikrona, 3 family planning cases and copies of jamabandies etc. His client had also been issued a certificate of being good farmer. Respondent No.7 has land measuring 27 kanals 2 marlas and his father has 9 acres of land. Even the Gram Panchayat Kabulpur Banger has also recommended the name of respondent No.7. The choice of Collector is primary unless and until vitiated in law. No such ground has been pointed out to enable this Court to form a different opinion than the one arrived at by the Collector.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Parmar, for, the order of the Collector, in my view, after remand is not vitiated in law or can be said to be misconceived and fall within the exceptions laid down in various judgments i.e. suffering from illegality and perversity. Unless and until the aforementioned ingredients are proved, the recommendation of the Collector cannot be tinkered with.

The private respondent has more educational qualification than the petitioner and the land holding is almost similar *viz-a-viz* 27 kanals 2

marlas of respondent No.7 and 38 kanals 18 marlas of the petitioner, besides father of respondent No.7 also owned 9 acres of land.

In view of the aforementioned fact, the order passed by the Collector is perfectly legal and justified and the petitioner has not been able to point out anything to form a different opinion than what has been arrived at. Moreover, there has not been a single case pointed out by any of the authorities, much less, the State regarding the working of private respondent No.7. No ground for interference is made out. The writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

May 15, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No