

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

CWP No.13006 of 2017 (O&M)

Date of Decision: 06.12.2017

Anil Kumar

. . . . Petitioner

Vs.

State of Haryana and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ajay Jain, Advocate,
for the petitioner.

Mr.J.P. Sharma, Advocate,
for respondent No.5.

Mr.Ashok Muthreja, DAG, Haryana.

RAKESH KUMAR JAIN, J. (ORAL)

This matter pertains to the appointment of a Lambardar (Backward Class) of Village Khorma, Tehsil Narnaul, District Mahendergarh. Both Assistant Collector, 1st Grade and Assistant Collector, 2nd Grade, Narnaul, recommended the name of the petitioner on 23.7.2012 and 12.9.2012 respectively, but the Collector vide his order dated 27.11.2013 remanded the matter back to the Assistant Collector, 1st Grade, Narnaul to find out the extent of participation of both the candidates in the social service. The Assistant Collector, 1st Grade, Narnaul, vide his order dated 9.1.2014 again recommended the name of respondent No.5 mentioning that he had deposited ₹1.5 lacs in his own small savings and on the basis of the report and taking into consideration the *inter se* merit of both the contesting parties, the Collector vide his order dated 23.4.2014 appointed respondent No.5 to the post of Lambardar. The appeal of the petitioner against the order of appointment of Lambardar was allowed by the

Commissioner on 22.4.2016 and revision petition filed by respondent No.5 was allowed by the Financial Commissioner. As a result thereof, the order of the Collector dated 23.4.2014 was maintained.

Learned counsel for the petitioner has submitted that the Collector, while appointing respondent No.5 as Lambardar, has erred in recording a finding that the petitioner being a carpenter would not be available in the village as he is working at Narnaul. In this regard, he has referred to his affidavit attached as Annexure P-6 in which he has averred that he is a carpenter and is working in the village itself. It is further submitted that though the petitioner does not have any land in his name but his father owns 4 kanal of land. It is further submitted that respondent No.5 was involved in a criminal case and the uncle of respondent No.5, who happens to be the Lambardar, was a defaulter. It is also submitted that there is no denial by respondent No.5 in his reply that the petitioner is working in Village Khorma.

On the other hand, learned counsel for respondent No.5 has submitted that it is wrong that the petitioner is working in Village Khorma and has denied the same in para No.10 of the reply. It is further submitted that the petitioner has not filed any affidavit of any respectable of the Village or Panchayat member about his availability in the village.

Learned counsel for respondent No.5 has referred to the report of the Patwari, Khorma and certificate issued by the Sarpanch, Gram Panchayat, Khorma and further submitted that the order has rightly been passed by the Financial Commissioner. It is also submitted that the Assistant Collector, 1st Grade, while reporting that respondent No.5 had deposited ₹1.5 in the small savings had complied with the remand order and

that the choice of the Collector should not be interfered until and unless there is any perversity or illegality in his order.

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

Although the Assistant Collector, 2nd Grade and Assistant Collector, 1st Grade had made the recommendations but the Collector was not clear in his mind to adjudge the suitability of the candidates and thus remanded the matter back to the Assistant Collector, 1st grade but as soon as he received the report, he made up his mind in favour of respondent No.5 observing that the petitioner is the carpenter, having a shop at Narnaul and would be away from the village. The petitioner has failed to bring on record any cogent evidence to dispel the doubt that he is not working at Narnaul but in the village except his own affidavit which is a bald assertion. The Financial Commissioner has rightly observed that the Commissioner has committed an error in minutely weighing the scale which was in fact the job of the Collector to perform at the time of appointment of the Lambardar. Respondent No.5 has been found to have an edge over the petitioner and has thus been rightly appointed.

As a consequence, thereof, I do not find any merit in the present petition and the error in the impugned orders. Hence, the present petition is hereby dismissed.

06.12.2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No