

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

**\*\*\*\*\***

**CWP No.24993 of 2014  
Date of Decision:02.08.2017**

**\*\*\*\*\***

Balwan Singh

....Petitioner

**Vs.**

Financial Commissioner, Revenue, Haryana and others

....Respondents

**\*\*\*\*\***

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

Present: Mr.Surender Lamba, Advocate,  
for the petitioner.

Ms.Tanisha Peshawaria, DAG, Haryana.

Mr.Manoj Kaushik, Advocate,  
for respondent No.4.

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***RAKESH KUMAR JAIN, J.***

The post of SC Lambardar of village Chhilarki fell vacant on account of death of Hari Singh Lambardar. After the proclamation, six applications were received to fill up the vacancy out of which four candidates withdrew their applications and only two candidates left in the contest, namely, the petitioner-Balwan Singh and respondent No.4-Raghbir. The Assistant Collector 2<sup>nd</sup> Grade, Pataudi made recommendation in favour of the petitioner on 9.4.2008. The Assistant Collector 1<sup>st</sup> Grade, Gurgaon, agreeing with the recommendation of the Assistant Collector 2<sup>nd</sup> Grade, Pataudi forwarded the case to the District Collector, Gurgaon on 24.7.2008. The District Collector, Gurgaon appointed the petitioner as Lambardar on 25.11.2008. The said order was challenged by respondent No.4 before the Commissioner, Gurgaon Division, Gurgaon, who vide his order dated

5.11.2009 set aside the order of the District Collector, Gurgaon and remanded the matter back to him with the direction to enquire into the fact as to whether the petitioner is a resident of village Chhilarki or of Garhi Harsaru. The District Collector, Gurgaon, after obtaining the report, again appointed the petitioner as Lambardar on 5.7.2011, which was challenged by respondent No.4 in appeal before the Commissioner, Gurgaon Division, Gurgaon, who vide his order dated 4.4.2012 set aside the said order and appointed respondent No.4 as Lambardar. The petitioner challenged the said order dated 4.4.2012 by way of ROR No.437 of 2001-12 before the Financial Commissioner, which was dismissed on 10.9.2014. The petitioner has thus, challenged the order of the Commissioner and Financial Commissioner in this petition.

Learned counsel for the petitioner has submitted that the Collector, after enquiry, had found that the petitioner is the resident of village Chhilarki and was suitable for the post of Lambardar being more educated, younger in age and has done cases of family planning. It is further submitted that the choice of the Collector has to be respected and should not be reversed until and unless there is a perversity in his order. It is further submitted that the appellate and revisional authorities have non-suited the petitioner only on the ground that he has been found residing in village Chhilarki, of which the Lambardari is in question, from the last 5-6 months which is not a disqualification.

On the other hand, learned counsel for the respondents has submitted that the character of the petitioner has not been found to be above board by the appellate and revisional authorities as not only it has been found that he had tried to prepare documents for the purpose of

showing his residence at village Chhilarki, though he is a permanent resident of Garhi Harsaru but also he wrongly gave his age before the recommending authorities which is borne out from the record. It is also submitted that the appellate authority had found perversity in the order of the Collector and set it aside, therefore, the impugned orders do not call for any interference.

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

Lambardari in question is governed by Rule 19B of the Punjab Land Revenue (Lambardari) Rules, 1909 [for short 'the Rules'] as it pertains to the Scheduled Castes candidate. It is mentioned in the Rule 19B of the Rules that in appointing the Headman, regard shall be had also to the character of the candidate which would reflect from his work and conduct. Respondent No.4 raised a question about the residence of the petitioner in village Chhilarki, Tehsil Pataudi as according to him the petitioner was the resident of Garhi Harsaru and was not entitled to apply for the post of Lambardar of Village Chhilarki. The petitioner had applied for the post of Lambardar of Village Chhilarki on 23.05.2007. At that time, he was the resident of Village Garhi Harsaru. He had applied for a ration card in Food & Supplies Department on 10.1.1999 showing his residence at Village Garhi Harsaru but in order to be appointed as Lambardar, Chhilarki he moved an application to cancel his ration card and made a request to prepare a new ration card showing his address of Village Chhilarki, which was issued on 08.06.2007 after the date of submission of his application for the post of Lambardar. It is also on record that his voter identity card, showing his residence in Village

Chhilarki, was issued to him on 31.08.2007 after the application was filed on 23.5.2007 and in the said identity card his age has been shown as on 1.1.2007 as 52 years whereas he has made the statement before the AC 2<sup>nd</sup> Grade on 5.12.2007 claiming himself to be 49 years of age. Even the Sarpanch of Village Garhi Harsaru has also submitted that the petitioner is the resident of Village Garhi Harsaru and it has been found that the petitioner had just started living in Village Chhilarki from the last 5-6 months for the purpose of submitting his application for the post of Lambardar. The Court has also found that in the voter list of Garhi Harsaru of the year 2010, meant for the election of the Panchayat, Panchayat Samiti and Zila Parishad, the name of the petitioner has been shown at Sr. No.148 and his voter identity card bearing Sr. No. HVV 3264538. The said voter list was based on the voter list of Vidhan Sabha which was published on 22.1.2009. The new voter card was issued on 31.8.2007 bearing Sr. No. SDC2191492. The Court has opined that the petitioner has been creating documents in order to show that he is the resident of Village Chhilarki. These facts have prevailed upon the appellate Court to opine about the conduct of the petitioner and also recorded that the order of the Collector is perverse because he did not notice these facts, which are on record, in his order to the detriment of the interest of respondent No.4. The Financial Commissioner also observed that the petitioner got his name deleted from the voter list of Village Garhi Harsaru on 7.3.2011 and was thus having his vote in Village Garhi Harsaru at the time of his appointment on 25.11.2008. It was also found that the application for getting ration card of Village Chhilarki was made on 8.6.2007 i.e. much after submission of the application for the post of

Lambardar. It was also observed that the Collector did not take this aspect into his consideration in spite of the specific observation made by the Commissioner in his remand order dated 5.11.2009 in order to verify the residence of the petitioner.

Thus, in my considered opinion, the order of the Collector has rightly been set aside by the Commissioner and his order has been rightly upheld by the Financial Commissioner because there was perversity in the order of the Collector in the appointment of the petitioner as Lambardar, whose conduct was not above board reflecting adversely upon his character.

In view of the above discussion, I do not find any merit in the present petition. Hence, the same is hereby dismissed.

**02.08.2017**

*Vivek*

**(RAKESH KUMAR JAIN)**  
**JUDGE**

*Whether speaking/reasoned*    *Yes/No*

*Whether reportable*            *Yes/No*