

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

CWP No.26390 of 2014
Date of decision : 08.02.2017

Chiman Lal

...Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Naveen Gupta, Advocate for the petitioner.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Mr. Kulbhushan Sharma, Advocate for respondent No.5.

AMIT RAWAL, J. (Oral)

The petitioner is aggrieved of the impugned orders (Annexures P-2, P-3, P-4 & P-5) i.e. Enquiry report, order of the District Collector, Commissioner and FCR, whereby in pursuance of the alleged complaint made against him regarding the performance as a lambardar, the Collector had ordered for his removal and appeal and revision have also met with the same fate.

Mr. Naveen Gupta, learned counsel appearing on behalf of petitioner submits that petitioner was appointed as Lambardar way back in the year 1996. The factum of his holding a Government service/post was in the knowledge of the authorities. Till 1996 to 2011, there had not been any single complaint regarding his services. Rather he had been attesting the

documents with more diligent knowing intricacy of the law as well as common sense, in essence, had impeccable record. Since private respondents No.5 was nursing a grudge which resulted into filing of the complaint. On the basis of the complaint, Enquiry Officer appointed and recorded statement of villagers. There is gross misreading of the statement of the witnesses. Witnesses deposed that Chiman Lal-petitioner had recorded the statement after verification of the documents but the finding of the Enquiry Officer is otherwise. In this regard, he has drawn the attention of this Court to statement of Shobha Ram vis-a-vis recording of enquiry officer. All these factors have not been taken into consideration. In support of his contention, he has also referred to the *decision dated 04.05.1992 rendered by Division Bench of this Court in CWP No.8592 of 1987 titled as Sukhwinder Singh Vs. Financial Commissioner.*

Mr. Sandeep S. Mann, Sr. DAG, Haryana and Mr. Kulbhushan Sharma, Advocate for respondent No.5 submit that it is on the basis of the complaint or the statement of residents, the Collector had opined for his removal and further ordered for initiation of the process of filling up the post of lambardar. Petitioner is never available for the attestation and registration of the documents being Government employee. He himself admitted that he attend the office from 10.00 to 5.00 PM and, therefore, his non-availability for registration and attestation of the sale deed and other various documents, power of attorney etc. is writ large and thus urges this Court for upholding of the orders under challenge.

I have heard learned counsel for the parties and appraised the paper book.

The statement of the witnesses (Annexures P-7 and P-8) which are reproduced hereinbelow:-

“Statement of Sh. Shobha Ram son of Sh. Chandi Ram, aged 65 years, resident of Village Jharsethli, Ballabgarh

On SA

Stated that I am the resident of above mentioned address. Sh. Chiman Lal is the Numberdar of our Mohalla. My signature is also there on the complaint. These signatures were obtained on the Panchayati level. Sh. Chiman Lal Numberdar, verifies any document only after investigation being government servant, never refuses to verify on the correct paper and never verifies any wrong document. Sh. Sher Singh-complainant has adopted one son of his brother-Deep Chand who is residing at Simarthala and he is not having any adoption deed or any other document, which the complainant wants to verify from the above Numberdar. That verification was not done by Sh. Chiman Lal Numberdar because Sh. Sher Singh wants to get verification of that adopted son without having any document, which was false. Therefore the complainant has made above false complaint. Sh. Chiman Lal Numberdar is doing his work in a rightful manner, we are having no complaint against him.

RO&AC

Sd/- Investigation Officer Cum

Shobha Ram

Sub Divisional Officer(C)

Balabgarh, 10.1.12

Statement of Sh. Kishan Singh son of Sh. Khillu Ram, aged 71 years, resident of Village Jharsethli, Ballabgarh.

On SA

Stated that I am the resident of Jharsethli. Sh. Chiman Lal is the Numberdar of our mohalla. My

signature is also there on the complaint made by Sher Singh. These signatures were obtained on the Panchayati Level. But Sh. Chiman Lal Numberdar is a government employees and being government employee, the signatures on the documents are to be done as per Rules and signatures/verification are done only after investigation. Signatures are not to be done on false/wrong paper. Sh. Sher Singh-complainant has adopted one son, for whom he is not having any document regarding adoption, whose verification he want to get from Chiman lal Numberdar but Sh. Chiman Lal Numberdar refused to verify due to non-availability of any document regarding adoption deed because the adopted son was that of his elder brother-Deep Chand and Sh. Deep Chand is residing his family at Village Simarthala. Therefore Sher Singh has made a false complaint against Chiman Lal Numberdar. Sh. Chiman Lal Numberdar is doing his work as per rules.”

on comparison with the findings of the Enquiry officer, which reads thus:-

“Rest of the complainant party, Sh. Sohan Lal s/o Sh. Hari Ram, Tulsi Ram s/o Sh. Chunni Lal, Tara s/o Sh. Ram Dayal s/o Sh. Todda, Deep Chand s/o Sh. Budh Singh, Kanhi Ram s/o Sh. Deep Chand and Bharat s/o Sh. Hari Ram rs/o Village Jharsentli, got recorded their joint statement against Sh. Chiman Lal, Numberdar. Who in their statement said that Sh. Chaman Lal is Nambardar of our Mohalla. Nambardar did not sign on on residential certificate of Tulsi Ram because in the Ration Card name was something else and in the marksheet name was something else, But even after getting the name corrected in the Ration Card, did not sign the residential certificate. Sh. Chiman Lal is a govt. employee and a govt. employee

cannot remain as Nambardar. There are signatures of 25-30 persons on the above complaint of the community, who do not want Sh. Chiman Lal to remain as Nambardar. Want to get someone else appointed as Nambardar, because being a govt. employee, do not meet even at home and also makes excuses in signing the residential certificate etc.”

I, am of the view that Enquiry Officer has grossly and gravely misread the statements. None of the witnesses have deposed against Chiman Lal, rather statements are otherwise. Even the orders do not reveal that from 1996 to 2011, there had been any complaint. Rather it appears that complaint is an outcome of some personal enmity or animosity being nursed by the private respondent against the petitioner. Such practice is to be nipped in bud instead of allowed to actuated. All these factors have not been take care of, thus, impugned orders are not sustainable and sustained to test of the reasonable. Resultantly, same are set aside.

Accordingly, present writ petition stands allowed.

08.02.2017

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No