

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

CWP No.22577 of 2017
Date of decision: 01.11.2017

Nand Ram

... Petitioner

versus

Financial Commissioner(Revenue), Haryana & ors. ... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Arun Yadav, Advocate
for the petitioner.

Rakesh Kumar Jain, J.(Oral)

The petitioner has challenged the order dated 21.04.2016 passed by the Commissioner, Gurgaon Division, Gurgaon by which the order of Collector, Rewari appointing the petitioner to the post of Lambardar of village Thothwal, District Rewari has been set aside. The post of Lambardar of the aforesaid village fell vacant on the death of Gajraj Singh on 17.05.2012. The Tehsildar, Rewari obtained the permission vide letter dated 07.09.2012 from the Assistant Collector, Rewari in order to fill up the vacancy. After that, due proclamation was made in the village. Six persons filed the application for the post of Lambardar. The petitioner was recommended by the Tehsildar and Assistant Collector, Ist Grade and the Collector vide order dated 29.04.2014 appointed the petitioner as Lambardar. The said order was challenged in an appeal by respondent No.4. The Commissioner set aside the order passed by the Collector and the case was remanded back for decision afresh. The petitioner was again

appointed as Lambardar on 10.12.2014. Respondent No.4 challenged the order dated 10.12.2014 (Annexure P-3) by way of an appeal before the Commissioner, which was allowed on 21.04.2016 and the appeal filed against that order before the Financial Commissioner was also dismissed on 19.07.2017. The petitioner has, thus, prayed for setting aside the order of the Commissioner and the Financial Commissioner.

Learned counsel for the petitioner has argued that the only thing which prevailed upon the Commissioner and the Financial Commissioner is of receiving old age pension for a period of 1 year and 3 months after his appointment as Lambardar but as soon as the petitioner came to know about it, he deposited the received amount towards old age pension in the Social Welfare Department. Therefore, it is submitted that the order of the Collector should be accepted as there is no perversity in the order.

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

In so far as respondent No.4 is concerned, it is recorded in the Collector's order that he is 39 years of age and 10th pass. He has his own pucca/constructed house and is the owner in possession of agricultural land measuring 8 acres. Nine persons had got their statements recorded in his favour and being the son of the deceased lambardar, he is well aware of the duties of Lambardar. He had also motivated for the family planning and has also been operated in this respect. He has also deposited ₹ 51,000/- in

Small Savings. His antecedents have been verified by the local police. He is also donating to the temples and the other candidate withdrew his candidature in his favour.

The Collector initially appointed the petitioner as Lambardar while observing that he is academically more qualified than respondent No.4 and more persons from the village have supported the petitioner. In so far as the question of receiving the old age pension is concerned, it is observed by the Collector that since the same has been deposited with the department, therefore, it would not come in his way for the purpose of appointment whereas the Commissioner and Financial Commissioner have found that the petitioner had received the old age pension after having been appointed as Lambardar. The Lambardar's case started in the year 2012 and the petitioner was appointed on 29.04.2014. The petitioner had received old age pension for a period of 1 year 3 months.

I am in the agreement with the observations made by Commissioner and the Financial Commissioner that Lambardar should know his rights and duties much less which covers the interest of the villagers including the old age pension and since he knew that he is not of the age to receive old age pension then he should not have received the same and has returned only when confronted.

Rule 15 of the Punjab Land Revenue Rules (as applicable to Haryana) provides that the regard shall be had to certain factors at the time of appointment of Lambardar. His own character is also one of the important aspects. The petitioner, who had received, old age pension

without being eligible, for a period of 1 year and 3 months, reflects upon his own character, therefore, there is no error on the part of the Commissioner and the Financial Commissioner.

In so far as the argument of the learned counsel for the petitioner that while setting aside the appointment of the petitioner, respondent No.4 was not appointed as Lambardar, is concerned in this regard it is clarified that in the absence of petitioner, respondent No.4 is appointed as Lambardar.

Accordingly, the present petition is dismissed.

01.11.2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/non-speaking?	Yes
Whether reportable?	Yes/No