

In the High Court of Punjab and Haryana at Chandigarh.

**CWP-3626 of 2016
Decided on 24.7.2017**

Bahadur Singh

--Petitioner

Vs.

State of Haryana and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Sumeet Goel, Advocate, with
Mr. Krishan M.Vohra, Advocate, for the petitioner

Ms.Tanisha Peshawaria, DAG, Haryana

Mr.Vivek Goel, Advocate,for respondent No.4.

Rakesh Kumar Jain,J: (Oral)

Costs of ₹5000/- is paid to the petitioner's counsel today in Court. Reply is also filed on behalf of respondent No.4 who is in contest.

This petition is filed for seeking a writ in the nature of certiorari for quashing the orders of the Collector Kurukshetra, dated 15.5.2012; Commissioner Ambala Division, Ambala, dated 01.09.2013 and the Financial Commissioner, Haryana, dated 30.7.2015, by which respondent No.4 has been appointed as Lambardar of village Kathwa, Tehsil Shahbad, District Kurukshetra and for issuance of a direction to the

Collector to appoint the petitioner to the post of Lambardar.

In short, the office of Lambardar fell vacant on the death of Arjun Ram, Lambardar (Backward Category). Applications were invited by the Collector. The petitioner and respondent No.4 were in contest.

The Collector, Kurukshetra, after considering the respective merits of the parties, appointed respondent No.4 as Lambardar observing thus:-

“I have heard the arguments of learned counsel for the parties and perused the material placed on record. If the qualifications of both the candidates are analyzed then due to less age more educated and due to donation of blood and support of more villagers, Vikramjit Singh is suitable candidate for the post of Lambardar”.

Against this order, the petitioner filed statutory appeal before the Commissioner, Ambala Division, Ambala, which was also dismissed and further revision filed before the Financial Commissioner, Haryana, also met the same fate.

I have heard learned counsel for the parties and perused the available record with their able assistance.

Learned counsel for the petitioner has submitted that while his revision was pending before the Financial Commissioner, respondent No.4 was ordered to be evicted from the panchayat land vide order dated 15.4.2015 passed by the Assistant Collector Ist Grade, Shahbad on an application filed by one Maya Devi under Section 7 (2) of the Punjab Village Common Lands (Regulation) Act, 1961.

Thereafter, the Collector vide order dated 27.1.2016 removed respondent No.4 from the office of Lambardar on the ground that he has

been found in illegal possession over the panchayat land.

Learned counsel for the petitioner has submitted that although respondent No.4 has been removed from the post of Lambardar but orders passed in his favour by the revenue authorities, appointing him as such, have to be set aside and the petitioner who was not appointed by the Collector because respondent No.4 was found to be more suitable than him has to be appointed as Lambardar in his place.

Learned counsel for respondent No.4 has not denied that he was evicted by the order of the Collector from the panchayat land on account of his being in an unauthorised possession.

Be that as it may, the fact remains that respondent No.4 was though eligible for being appointed as a Lambardar at the time when he was chosen by the Collector but he was disqualified later on. Had the disqualification been there or detected earlier, perhaps respondent No.4 would not have been considered by the Collector and the petitioner would have been appointed as Lambardar in his place but it had not happened because the application dated 27.6.2013 filed by Maya Devi under Section 7 (2) of the Punjab Village Common Lands (Regulation) Act, 1961 came to be decided on 15.4.2015, whereas the authority concerned passed the order dated 15.5.2012 which was upheld in appeal by the Commissioner but the Financial Commissioner, as stated by the learned counsel for the petitioner, did not take into consideration the order dated 15.4.2015 passed by the Assistant Collector and dismissed the revision petition filed by the petitioner.

In view of the aforesaid facts and circumstances of the case,

the present petition is hereby allowed and all the impugned orders aforesaid are hereby set aside and a direction is issued to the Collector to consider the petitioner for the purpose of appointment to the office of Lambardar in view of his suitability. The entire exercise shall be carried out by the Collector within a period of 30 days from the date of receipt of a certified copy of this order.

24.7.2017
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(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned:

Yes/No.

Whether Reportable:

Yes/No