

CWP No.8225 of 2016

[1]

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

**CWP No.8225 of 2016
Date of decision:25.07.2017**

Sant Pal

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Divya Sharma, Advocate,
for the petitioner.

Mr. Saurav Mohunta, DAG, Haryana.

Mr. Partap Singh, Advocate,
for respondent no.5.

Mr. Ashish Gupta, Advocate,
for respondent no.6.

Rakesh Kumar Jain, J.

The office of Lambadar of village Rathiwas, Tehsil Tauru, District Mewat fell vacant on the death of Bachan Singh on 27.10.2013. In order to fill up the said vacant post, applications were invited by the Assistant Collector 2nd Grade by making proclamation, pursuant to which five persons applied for the said post, namely, petitioner Sant Pal, respondent no.5 Naval Singh, respondent no.6 Krishan, respondent no.7 Ratti Pal and one Kartar Singh. However, Kartar Singh withdrew his application, allegedly in favour of the petitioner. The Assistant Collector 2nd Grade, after taking into consideration the respective merits of all the four candidates, recommended the name of the petitioner for appointment to the post of Lambadar vide his order

dated 03.06.2014. However, the second recommending authority, namely, the Assistant Collector 1st Grade, Nuh, recommended the name of respondent no.5 Naval Singh, vide his order dated 12.11.2014. The Collector did not find any of the candidates suitable for appointment for the reasons recorded in his order dated 10.06.2015 and terminated the entire proceedings initiated for appointment of Lambardar and directed that it may be started *de-novo* by inviting fresh applications, giving liberty to all the four candidates to also apply. The candidature of the petitioner was found not suitable by the Collector on the following grounds:-

“.....The educational qualification certificate of Sh. Santpal applicant was found to be genuine after inquiry from the concerned education Department, however, at the time of arguments that second party presented letter No.15/2014-15 dated 05.01.2015 from the Principal, Shekhawati Village Higher Secondary School Kakora District Jhunjunu (Rajasthan). Principal, Shekhawati Village Higher Secondary School Kakora District Jhunjunu (Rajasthan), in the aforesaid letter has falsified his education qualification certificate of Sh. Santpal and has stated in the letter that Sh. Santpal son of Sh. Ranjit Singh did not pass the Matriculation Examination from the aforesaid school, therefore, the education qualification certificate of Sh. Santpal appears to be erroneous. On account of the education qualification certificate of Sh. Santpal being erroneous, even this candidate is not a fit candidate.”

The order of the Collector was challenged only by the petitioner in appeal before the Commissioner, Gurgaon Division, Gurgaon. Though the said appeal was accepted but only to the extent that the petitioner would be at liberty to make fresh application along with the other candidates but at the time of accepting the appeal, the following observations were made by the Divisional Commissioner:-

“....The impugned order passed by the District Collector is contradictory inasmuch as on the one hand the District Collector, Mewat has declared the candidate unfit and on the other hand has granted them permission to make fresh application. The applicant is more qualified and better than the other candidates. The District Collector has found the appellant unfit solely on the ground that his educational certificate has been found to prima facie suspicious even though the veracity of the educational certificates of the appellant had been inquired into by the Tehsildar, Tauru and Sub Divisional Officer (C) Nuh and both the revenue officials, in their report, found the education certificates of the appellant to be genuine. In this manner, the Collector ignored the material facts while passing the impugned order which is erroneous. Finally the learned counsel for the appellant has prayed for acceptance of the appeal and for setting aside the order of the District Collector.

After hearing initial arguments advised by the learned counsel for the appellant and perusing order of the Lower Court on file based found that District Collector, Mewat declared the appellant unfit for the post of Lambardar on account of his educational certificates being found erroneous, however, perusal of the document presented by the appellant before me prima facie reveals that the educational certificates of the appellant are genuine. Therefore, I accept the appeal to the extent that the appellant would be at liberty to make fresh application for the post along with other new candidates for the post of Lambardar.”

Still aggrieved, the petitioner filed revision before the Financial Commissioner. The said revision petition was dismissed on 03.08.2015 by observing as under:-

“.....The claim of the petitioner was declined on the ground that the certificate of educational qualification produced by the petitioner have been duly rebutted by the respondent by producing the letter issued by the Principal, Shekhawati Gramin Senior Secondary School, Jhunjunu, which shows that the petitioner has not passed the matriculation examination from the above school. The petitioner failed to prove that the matriculation certificate produced by him is genuine. The Collector, Mewat has rightly disqualified

him for appointment of Lambardar of village Rathiwas. The order of Collector, Mewat directing fresh proclamation for appointment of Lambardar seems to be justified and based on settled legal proposition.

In view of the discussion has made above the present revision petition filed by the petitioner is devoid of any merit and hereby dismissed in limine.”

Counsel for the petitioner has submitted that the Collector had marked an inquiry vide his order dated 28.01.2015 to the Sub Divisional Officer (C), Nuh, for verification of the educational qualification certificate of the petitioner. The Sub Divisional Officer (C), Nuh, made the report on 31.03.2015 about genuineness of the educational qualification certificate of the petitioner in his favour, even after taking into consideration the objection of the other candidate, who had produced the letter of the Principal of the Shekhawati Gramin Senior Secondary School, Kakora, Jhunjunu (Rajasthan). It is submitted that the only objection against the petitioner was regarding genuineness of his educational qualification certificate, which has been proved to be genuine from the report of the Sub Divisional Officer (C), Nuh and, thus, the Collector has committed an error in relying upon the letter of the Principal, Shekhawati Gramin Senior Secondary School, Kakora, Jhunjunu (Rajasthan), which was only a centre for examination conducted by the Hindi Sahitaya Sammelan, Allahabad, who has declared that the petitioner passed the matriculation from their institute and duly verified his certificate.

On the other hand, counsel for the respondents have submitted that the case has been remanded for fresh proclamation as no-one has been found suitable for appointment and permission has been given to the petitioner as well to apply afresh, therefore, there is no error in the impugned orders.

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

The matter pertains to the appointment of the Lambardar in the General category, which is governed by Rule 15 of the Punjab Land Revenue Rules, 1968. There were four candidates in the fray. The Collector considered candidature of all the four candidates and found all of them unsuitable and ordered for re-advertisement. The petitioner has been non-suited/found unsuitable only on the ground of suspicion regarding his educational qualification certificate. The Collector, vide his order dated 28.01.2015, marked the inquiry to the Sub Divisional Officer (C), Nuh, for verification of the educational qualification certificate of the petitioner. The Sub Divisional Officer (C), Nuh, made a detailed inquiry and reported on 31.03.2015 to the Collector about genuineness of educational qualification certificate of the petitioner. The report made by the Sub Divisional Officer (C), Nuh, is reproduced as under for the quick reference:-

“From

Sub Divisional Officer (C)
Nuh.

To

Deputy Commissioner,
Mewat-Nuh.

No.964/Steno

Dated:31.03.2015

Subject: Regarding the inquiry into the education qualification certificates of Sh. Sant Pal son of Sh. Ranjit.

Sir,

In reference to your office letter No.132/PB dated 28.01.2015 with reference to the afore-mentioned subject.

With regard to the aforesaid subject, the copy of education qualification certificates of Sh. Sant Pal candidate for Nambardar

received from you office along with the earlier inquiry report of Tehsildar Tauru and the inquiry report presented by the second candidate were perused. After perusal, registered letter No.870/Steno dated 10.02.2015 was sent to Controller, Examination, Hindi Sahitaya Sammelan, Allahabad, 12-Sammelan Marg, Allahabad-211003 was sent for verification of the education qualification certificates of Sh. Sant Pal son of Sh. Ranjit and report was called for with regard to the education qualification certificate No.16176 and Roll No.16395 dated 23.03.2013 was called for. In addition to the aforesaid, the Controller, Examination was also requested to provide details of the examination centre where candidate for Nambardar Sh. Sant Pal had taken the examination.

The Controller, Examination, Hindi Sahitaya Sammelan, Allahabad, 12-Sammelan Marg, Allahabad-211003 vide their office letter No.4756/3 dated 23.02.2015 informed this office that the education qualification certificate No.16395 was issued in the name of Sh. Sant Pal son of Sh. Ranjit Singh and Sh. Sant Pal son of Sh. Ranjit Singh had taken the examination organized at Shekhawati Gramin Senior Secondary School, Kakora, Jhunjunu (Rajasthan) Centre.

After perusal of the inquiry report sent by the Controller, Examination, Hindi Sahitaya Sammelan, Allahabad, 12-Sammelan Marg, Allahabad-211003, it has been found that the education qualification certificates produced by Sh. Sant Pal son of Sh. Ranjit candidate for Nambardar have been found to be correct by the report No.4756/3 dated 23.02.2015 of the Controller, Examination, Hindi Sahitaya Sammelan, Allahabad, 12-Sammelan Marg, Allahabad-211003. With regard to the inquiry report presented by the second candidate, it is pertinent to mention here that the second candidate had sought information under the RTI Act from the Organizer Shekhawati Gxramin Senior Secondary School, Kakora, Jhunjunu (Rajasthan) with regard to the examination period when Sh. Sant Pal candidate had taken the examination. In fact the second candidate ought to have sought information from the Controller, Examination, Hindi Sahitaya Sammelan, Allahabad, 12-Sammelan Marg, Allahabad-211003 not from the examination centre because Sh. Sant Pal candidate had studied from Hindi

Sahitaya Sammelan, Allahabad, 12-Sammelan Marg, Allahabad-211003. Therefore, keeping in view the aforesaid facts, inquiry report No.4756/3 dated 23.02.2015 sent by the Controller, Examination, Hindi Sahitaya Sammelan, Allahabad, 12-Sammelan Marg, Allahabad-211003, the education qualification certificate presented by Sh. Sant Pal son of Ranjit Singh has been found to be correct. Report is presented for further necessary action.”

No other candidate was aggrieved against the order of the Collector but for the petitioner, who challenged the order of the Collector by way of an appeal. The Commissioner, in appeal, recorded the finding that the educational qualification certificate of the petitioner *prima facie* reveals that it is genuine. He did not give a concrete finding but only made a *prima facie* observation and while accepting the appeal, allowed the petitioner to make fresh application along with other candidates.

The Financial Commissioner also dismissed the revision petition in limine observing that the petitioner had failed to prove that the matriculation certificate produced by him is genuine.

This finding of the Financial Commissioner is contrary to the inquiry made by the Sub Divisional Officer (C), Nuh, who has thoroughly dealt with the issue about genuineness of the educational qualification certificate produced by the petitioner. The suspicion created by the other candidate on the basis of a letter from the Principal of the Shekhawati Gramin Senior Secondary School, Kakora, Jhunjunu (Rajasthan) is totally misplaced because the said school was not to issue the certificate of having passed matriculation by the petitioner as it was only an examination centre fixed by the Hindi Sahitaya Sammelan, Allahabad, who has testified that the certificate issued to the petitioner is genuine.

Thus, to my mind, there is no need for re-advertisement of the post of Lambardar in view of the inquiry report of the Sub Divisional Officer (C), Nuh, dated 31.03.2015. It would have been an altogether different situation, had there been no inquiry made to find out the genuineness of the educational qualification certificate but once the inquiry has been made, which has not been challenged by any of the candidates on any ground, it deserves to be given due respect. The suspicion caused by the other candidate on the basis of the letter issued by the Shekhawati Gramin Senior Secondary School, Kakora, Jhunjunu (Rajasthan) is totally misplaced because it was not to issue the certificate of passing the matriculation by the petitioner from his school.

With these observations, the present petition is hereby allowed, the impugned orders are set aside and the matter is remanded back to the Collector to decide the case with regard to appointment of the petitioner as Lambardar afresh keeping in view the aforesaid observations made by this Court.

The petitioner is directed to appear before the Collector on 23.08.2017.

July 25, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No