IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

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CWP No. 12505 of 2016
Date of Decision: 12.9.2018

Bhagwant Singh **..........Petitioner**

v.

The Financial Commissioner, Revenue, Punjab and others
..........Respondents

CORAM HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present:- Mr. Harsh Aggarwal, Advocate, for the petitioner

Mr. P.S. Bajwa, Addl. AG, Punjab

Mr. Sherry K. Singla, Advocate, for respondent No. 4

G.S. SANDHAWALIA, J. (Oral) :

Present petition has been filed for issuance of a writ in the nature of certiorari for quashing the orders dated 28.3.2016 (Annexure P-6) passed by respondent No.1 and order dated 26.8.2014 (Annexure P-5) passed by respondent No.2 and for restoring the order dated 23.10.2013 (Anexure P-4) passed by respondent No.3, whereby the petitioner was appointed as Nambardar of village Chhatriwala.

The petitioner was appointed by the Collector, Sangrur as Nambardar of village Chhatriwala on 23.10.2013 and is aggrieved against the order of the Commissioner dated 26.8.2014 (Annexure P-5), whereby the appointment has been set aside on the ground that he does not belong to the village and is not permanent resident of the village. Resultantly, respondent No.4 -Kulvir Singh has been ordered to be appointed as the Nambardar. The order has been upheld by the Financial Commissioner vide order dated 28.3.2016 (Annexure P-6), which is also subject matter to the challenge in the present writ petition.

Learned counsel for the petitioner vehemently submitted that the villages are adjoining and the choice of the Collector should not be interfered. It is submitted that the enquiry was made by the Collector before the order was passed and in such circumstances, the order of the Collector should not have been interfered with by the Commissioner, which has been wrongly upheld by the Financial Commissioner.

It is not disputed that on the death of Chaman Lal on 30.3.2012, the vacancy had arisen for the post of Headman in the village. The petitioner himself filed an application on 5.1.2013 (Annexure P-1) for verification of his residential house at the village in question. The Deputy Commissioner had also asked for report as such, which was to the extent that there were two houses, one in village Chhatriwala and the other in village Bharhi Mansa. The Panchayats of both the villages are separate but the villages are stated to be adjoining.

Learned State counsel submits that distance of both the villages is nominal and therefore, the Commissioner was not justified. It is not disputed that vacancy sought for is for the post of village Chhatriwala. The Commissioner has interfered on the ground that the petitioner is not permanent resident of the village and therefore, held that the private respondent Kulvir Singh entitled for appointment. The factual matrix also could not be disputed in as much as the petitioner himself was a member of the Panchayt of village Bharhi Mansa as per the communication dated 19.12.2012 (Anexure R-1 colly), which shows that the petitioner was elected as a member of the Panchayat for village Bharhi Mansa in the election held in the year 2008. The identity card issued by the Election Commission of India also shows that he is resident of the said village. Similarly, the voters' list also shows that he has been registered as a voter in the said village, apart from having the ration card.

The Revenue Agency has also prepared the naksha nambardari in which it is showing that he is resident of the village having two acres of land in the said village. Additional material in the form of RTI information, received from the Punjab State Power Corporation Limited that he is resident of the said village and having Account No. BM16/392 has also been attached by respondent No. 4. The above material would gone to show that the petitioner is not a permanent resident of the revenue estate concerned but is staying in the adjoining estate. Therefore, merely on account of maintaining two houses, he is not entitled to be appointed to the said post, which is particular to a separate Revenue Estate.

The Commissioner was correct in coming to the conclusion that he is not a permanent resident and the order of the Collector, thus, suffer's from perversity, as only prior to the appointment (Annexure P-1), efforts have been made by the petitioner for getting his resident verified to show that he is permanent resident of the village.

Resultantly, no objection can be found in the order passed by the Commissioner and Financial Commissioner, which have set aside the appointment of the petitioner and accordingly, the present petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

12.9.2018
Ashwani

Speaking/Reasoned Yes/No
Reportable Yes/No