

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

129

CIVIL WRIT PETITION NO.16021 OF 2018

DATE OF DECISION: JULY 05, 2018

Sandeep Kumar

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Inderjeet Singh, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court, challenging the order dated 05.03.2015 passed by the Sub Divisional Officer (N), Bilaspur (Annexure P-4), recommending the appointment of respondent No.5, Wariyam Singh as Watchman of Village Nagli-264, Tehsil Bilaspur, District Yamunanagar and the order dated 17.06.2015 (Annexure P-6) passed by the Collector, appointing respondent No.5 on the basis of the said recommendation as also the order of the Commissioner dated 19.01.2018 (Annexure P-9) whereby his appeal has been dismissed.

It is the contention of learned counsel for the petitioner that respondent No.5 does not possess the qualification of 8th Class, which is a mandatory requirement under the statute. He contends that even the certificate, which has been obtained by respondent No.5, has been found to be fake as per the information received by the petitioner under the Right to

Information Act. Appointment of respondent No.5 has also been challenged on the plea that the petitioner is more suitable as he is younger in age, fulfills the qualifications and has more recommendations in his favour as compared to respondent No.5. Assertion has also been made that there was a criminal case registered against respondent No.5 under Section 376 IPC and, therefore, he should not have been appointed as a Watchman of the village.

I have considered the submissions made by learned counsel for the petitioner and with his assistance have gone through the record of the case as also the impugned orders.

The pleas, which are sought to be taken before this Court, including regarding qualification of respondent No.5, were never raised before the authorities below and, therefore, the same cannot be permitted to be raised at this stage. As regards the plea of counsel for the petitioner that there was a criminal case registered against respondent No.5, suffice it to say that in the said criminal case, respondent No.5, after trial, has been acquitted by the trial Court and, therefore, said ground is also not sustainable. Therefore, it would not be appropriate for the Court to go into the aspect of appointment of respondent No.5 as Watchman any further and, thus, interference in the decision/choice exercised by the Collector under the statute is not called for as there is no perversity, illegality or malafide in the action of the Collector. The order passed by the Commissioner also do not call for any interference.

The writ petition, being devoid of merit, therefore, stands dismissed.

Counsel for the petitioner states that liberty may be granted to

the petitioner to file a complaint against the qualification/certificate submitted by respondent No.5, which, as per the information received by the petitioner has been found to be fake.

It goes without saying that remedy available to the petitioner in this regard has not been curtailed or opined upon in the present writ petition and, therefore, he may avail of his remedy in accordance with law.

July 05, 2018
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No