

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP No.21202 of 2018
Decided on : 29.08.2018

Sanjay Yadav

... Petitioner

Versus

State of Haryana & another

... Respondents

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

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

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition is to the order passed by the Financial Commissioner, Haryana, Chandigarh dated 30.05.2018 (Annexure P-11), whereby the revision petition filed by the petitioner, preferred against the order passed by the Commissioner, Gurugram Division, Gurugram dated 04.07.2017 (Annexure P-4), has been dismissed. By virtue of the said order, the appointment of the petitioner as Numberdar of Village Hussainpur, which had been effected by the District Collector, Rewari on 26.02.2014 (Annexure P-2), has been set aside.

The reasoning given by the Commissioner and the Financial Commissioner is on account of the fact that the petitioner is not a permanent resident, as such, of the said village, which is the argument raised by the private-respondent and accepted by noting that the petitioner did not have any Ration Card or Voting Card and therefore, he was not in a position to do the Numberdari work properly. In view of this background, the Sanad Numberdari was directed to be issued in favour of Bijender Singh, respondent No.2 by the Commissioner, vide order dated 04.07.2017.

Counsel for the petitioner has vehemently argued that the petitioner is the owner of large tract of land measuring 394 kanals falling in the Village Hussainpur and his mother, as such, resides at Rewari, where she is running a school, which is only 3 kms from the village and that he is a permanent resident of the village, as such and visits his mother occasionally.

The reasoning given by the Financial Commissioner, to uphold the order passed by the Commissioner, is that the documents of Ration Card and Domicile certificate were prepared during the pendency of the appeal before the Commissioner, to cover up the issue of permanent resident of the village. It was, accordingly, held that presence of the Lambardar would be required for discharge of his duties and therefore, the orders of the District Collector had been interfered with. Relevant portion reads as under:

“I have considered the arguments putforth by counsels of both the parties, examined the impugned orders, perused the record of the present case and considered the judgments relied upon by both the parties. The petitioner in the present revision petition raised the point that he is residing in the Village Hussainpur permanently and temporarily residing at Rewari. During the course of argument before this Court the petitioner has submitted a Ration Card and a Domicile Certificate of the Village Hussainpur. Bare perusal of the Ration Card of the petitioner cast doubt on the presence of petitioner in the village. The Ration Card itself reflected that it was prepared and issued in the year of 2017 whereas, the post of Lambardar fall vacant on 30.01.2012 and the application for the post of Lambardar was invited by the authorities up to 31.07.2012. Perusal of the record further reveals that Ration Card and Haryana Domicile of the petitioner were prepared during the

pendency of appeal before the Commissioner, Gurugram, Division, Gurugram, and the same clearly indicated that the above said Ration Card and Haryana Domicile were prepared to cover up the issue of petitioner is discarded. It is a settled proposition of law that the presence of Lambardar is required, by and large at all hours in the village for discharge of his duties. Therefore, the order of the Commissioner, Gurugram Division, Gurugram is proper and legal.”

It is not disputed that petitioner is approximately 47 years of age and a perusal of Annexure P-7 would go on to show that the Haryana Resident Certificate was also issued only on 24.07.2017, after the Commissioner had passed the order dated 04.07.2017. Nothing has been brought on record to show that the Ration Card, as such, had been issued prior to the vacancy which arose on 30.01.2012 and thus, it would go on to show that the findings which have been recorded by the Financial Commissioner are correct in as much as the petitioner is not residing in the village at all times and his availability is suspect.

Even the certificate issued by the Sarpanch dated 05.07.2017, on the very next day after the order was passed by the Commissioner, would go on to show that while certifying that the petitioner's father was Lambardar and they had land and a residential house in the village and at Rewari, it was mentioned that sometime they reside at the village and sometime at Rewari. Relevant portion reads as under:

“I, Anand son of Shri Sarjit Singh Sarpanch, Gram Panchayat, Hussainpur (Hari Nagar) know personally Sanjay Yadav s/o Col. Ram Singh. Before Sanjay Yadav, Col. Ram Singh was Numberdar, at that time Sanjay Yadav was Sarbrah Numberdar.

They had land in the village and there is their residential house on it. They have residence at the village and at Rewari. Sometime they reside at the village and sometime at Rewari. He always remains at disposal whenever there is any Numberdar work or any social work. They have an agriculture land form of 25 acres in the village.”

On an overall analysis of the factual background, as such, the findings recorded by the Commissioner that the petitioner is not permanent resident of the village and residing more at Rewari, cannot be faulted, in any manner. There is no denying the fact that the availability of the Lambardar of the Village and his appointment is for the convenience of the public. Once the person himself is not available, it would frustrate the purpose and would cause harassment to the general public. A similar view was taken by this Court in **Bhag Singh Vs. Financial Commissioner, Appeals-II, Punjab & others 2011 (2) PLR 399** and **Naib Singh Vs. Financial Commissioner (Revenue), Punjab & others 2013 (35) RCR (Civil) 263**.

In such circumstances, the Commissioner was well justified in setting aside the order of appointment of the petitioner. Resultantly, this Court is of the opinion that no case is made out for interference in the well reasoned orders passed by the Commissioner and the Financial Commissioner.

In view of the above discussion, the present writ petition is dismissed in limine.

AUGUST 29th, 2018
sailesh

(G.S.SANDHAWALIA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>