

CWP-5099-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-5099-2019

Date of Decision: 07th March, 2019

Mahabir

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Daljeet Singh Virk, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 28.11.2018 (Annexure P-1) passed by the Sub Divisional Officer (Civil), Fatehabad, appointing respondent No.4 – Madan Lal son of Mani Ram as Chowkidar of village Bangaon, Tehsil and District Fatehabad.

2. It is the contention of the learned counsel for the petitioner that the certificate, which has been produced by respondent No.4 – Madan Lal in support of his claim that he has passed his 8th class, indicates that it is from the National Institute of Open Schooling, which is not a recognized school of the Government of Haryana as per the rules. The requirement of 8th class pass is from a school, which is a Government school or a Government recognized school. Since, it is not a Government or Government recognized school and is an open schooling certificate, the same could not have been taken into consideration. That apart, he contends that respondent No.4 – Madan Lal is in illegal possession of the gram panchayat land. In support

of this contention, reliance has been placed upon Annexure P-4, which is said to be a document produced on the record of a civil suit, which is still pending in a Court. On a categorical question put by this Court, learned counsel for the petitioner has stated that this document depicts encroachment by respondent No.4 – Madan Lal in the year 2015. He, on the basis of these documents, contends that the appointment of respondent No.4 cannot sustain as Chowkidar of village Bangaon vide impugned order dated 28.11.2018 (Annexure P-1) as he does not fulfill the requirements of the statutory rules governing the appointment to the post of Chowkidar.

3. I have considered the submissions made by the learned counsel for the petitioner and with his assistance have gone through the records of the case.

4. Learned counsel for the petitioner, on a categorical question put by his Court as to whether the National Institute of Open Schooling, from where respondent No.4 – Madan Lal has passed his 8th class, finds mention in the list of recognized institutes by the Government of Haryana, he has very fairly stated that it is so mentioned. If that be so, merely because the qualifications of 8th class has been obtained from the National Institute of Open Schooling would not mean that respondent No.4 – Madan Lal is not qualified for appointment to the post of Chowkidar and does not fulfill the requirement of the statutory rules.

5. As regards the contention of the learned counsel for the petitioner that respondent No.4 – Madan Lal is in illegal possession of the land of the gram panchayat, suffice it to say that the date on which, the

applications were invited i.e. 17.01.2018 and/or on the date of consideration of the candidatures of the applicants, there is nothing on record to indicate that respondent No.4 – Madan Lal was in illegal possession of the land. In any case, the document (Annexure P-4), which is alleged to be the basis for asserting that respondent No.4 – Madan Lal is in illegal possession of the gram Panchayat land, is inconclusive as it is said to be a document on the record of a pending civil suit and that too relates to the year 2015, on which, no finding as yet has been returned by the Court. The same, therefore, cannot be made the basis for coming to a conclusion that respondent No.4 – Madan Lal is in illegal possession of the land of gram panchayat.

6. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

07th March, 2019
Harish

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