

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

104

CWP-14132-2018

Date of decision: 30.01.2019

Sushil

...PETITIONER

VS.

State of Haryana and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Chiranshu Bansal, Advocate,
for Mr. Vikram Singh, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 20.02.2018 (Annexure P-1) passed by the Deputy Commisioner, Sonapat-respondent No. 2, whereby Ramesh Kumar-respondent No. 5 has been appointed as Chowkidar of Village Bhora Rasulpur, Tehsil Ganaur, District Sonapat.

It is the contention of the learned counsel for the petitioner that respondent No. 2 has not even considered the material facts which were in favour of the petitioner such as there being a resolution of the Gram Panchayat in favour of the petitioner, copy whereof has been appended as Annexure P-2, and that respondent No. 5 was working in Delhi and not residing in the village and also that a complaint has been filed against respondent No. 5 with the Sub-Divisional Magistrate and Block Development and Panchayat Officer for embezzlement of Panchayat funds

but the same has not been taken into consideration. He contends that the reasons, which have been assigned in favour of respondent No. 5, do not indicate that he is a better candidate than the petitioner and, therefore, order dated 20.02.2018 (Annexure P-1) passed by the Deputy Commissioner, Sonapat-respondent No. 2 cannot sustain and deserves to be set aside.

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.

As regards the assertion of the counsel for the petitioner that there is a resolution of the Gram Panchayat, which is in favour of the petitioner, suffice it to say that it may have some persuasive effect but for the appointment of a person, various other factors also have to be taken into consideration. The comparative merit of the candidates, who had participated in the selection process, has been dealt with in detail by the Deputy Commissioner, Sonapat while passing the order dated 20.02.2018.

As regards the contention of the learned counsel for the petitioner that respondent No. 5-Ramesh Kumar is working in Delhi and is not residing in the village, there is no documentary evidence to support the same except for the bald assertion on the part of the petitioner.

As regards the contention of the learned counsel for the petitioner that a complaint has been filed against respondent No. 5 for embezzlement of Panchayat funds, suffice it to say that he has conceded that the complaint has come into existence after the proclamation has been issued and, therefore, the same appears to be motivated especially when there is no documentary evidence to prove the same apart from the fact that may be there is any complaint but there is no finding to substantiate the

same. Petitioner is 23 years of age whereas Ramesh Kumar-respondent No. 5 is 26 years old. Education-wise, Ramesh Kumar-respondent No. 5 is more qualified being 12th pass as compared to the petitioner, who is 10th pass. It has also come on record that the petitioner has motivated one case of family planning whereas respondent No. 5 has motivated two cases. Sufficient number of persons have appeared in favour of respondent No. 5 i.e. 14 in number whereas in support of the petitioner, only 5 persons have appeared. Even the Tehsildar, Ganaur and the Sub-Divisional Officer (C), Ganaur, District Sonapat had recommended the name of Ramesh Kumar-respondent No. 5 for appointment to the post of Chowkidar. All these factors were taken into consideration and the same leaves no manner of doubt that the appointment of respondent No. 5 has been made in accordance with the statutory Rules and the best candidate has been appointed as Chowkidar.

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

January 30, 2019*pj***(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No