

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

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**CIVIL WRIT PETITION NO.17188 OF 2017
DATE OF DECISION: MARCH 26, 2019**

Rasid Khan

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

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

Present: Mr. S. K. Chauhan, Advocate,
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

On 25.01.2019, the following order was passed:-

“Having heard the learned counsel for the parties and keeping in view the fact that the Collector Bhiwani, District Bhiwani, has held the petitioner ineligible on the ground that he has not passed his 8th standard from a Government school or Government recognized school, which appears to be not in consonance with the records, which have been produced before the Court by the petitioner, according to which, the school where the petitioner had passed his 8th standard, is a Government recognized school.

Let the Collector Bhiwani, District Bhiwani – respondent No.2

verify the authenticity of the mark-sheet and the certificate submitted by the petitioner with reference to the factum of it being having obtained from a Government recognized school and file an affidavit in this regard before the next date of hearing.

List for further consideration on 26.03.2019.”

In compliance with the abovesaid order, affidavit dated 14.03.2019 of the Collector, Bhiwani, has been filed in Court, according to which the certificate and the mark sheet, which have been produced by the petitioner, have been found to be genuine as verified by the Principal of Gautam Budh Junior High School, Ranagarh, Pilkhawa, District Gaziabad, alongwith comments of the District Basic Education Officer, Hapur (U.P.). It has been mentioned that the said school is permanently recognized from 6th to 8th Class by the Divisional Assistant Education Director, Basic, Meerut (U.P.) vide letter dated 01.04.1988.

In the light of the above, the impugned order dated 07.02.2017 passed by the Collector, Bhiwani, whereby the candidature of the petitioner was rejected on the ground that he was not eligible as per point 3 (b) of the Government instructions and Chowkidara Rules, 2011, cannot sustain as it was observed that the petitioner had not passed 8th standard from the Government School or Government recognized school. It is clear that the Collector, Bhiwani, while passing the said order had not verified the correctness and authenticity of the documents, which had been produced by the petitioner, as is apparent from the affidavit dated 14.03.2019, which has been submitted in Court today alongwith documents Annexures R1 to R3.

Apart from that another plea and the ground which was taken as

a disqualification for the petitioner was that he was the sole candidate. This plea also cannot be accepted as the Collector, Bhiwani, is bound to consider the candidature of the applicant, who is in the ambit of appointment to the post of Chowkidar of the village and merely because there is no other candidate who had applied for or eligible for the post cannot be a ground for rejecting the candidature of a person who has filed an application and has been found to be otherwise eligible now.

In view of the above, the writ petition is allowed and the order dated 07.02.2017 (Annexure P-1) is hereby set-aside. The case is remanded back for fresh decision to the Collector, Bhiwani. Petitioner to appear before the Collector, Bhiwani on **04.04.2019**. The Collector, Bhiwani, thereafter shall proceed to take a decision with regard to the claim of the petitioner within a period of two weeks from the said date.

Copy of the order be given *dasti* under the signatures of Bench Secretary of this Court to the counsel for the parties.

March 26, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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