

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

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Civil Writ Petition No.2233 of 2015
Date of Decision: January 30th, 2019

Jasmit

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ramesh Goyat, Advocate
for the petitioner.

Mr. Manish Dadwal, Assistant Advocate General, Haryana.

Mr. Ravinder Malik, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This case has a chequered history. A proclamation was issued for appointing a new Chowkidar of Village Mado Haldari, Tehsil Chhachhrauli, District Yamuna Nagar, in place of deceased Kesho Ram, Chowkidar, on 21.09.2011. The last date for receipt of application was within 30 days of such proclamation, so it could be presumed that the last date would be 20.10.2011. On the said date, the Rules applicable were Punjab Chowkidara Rules, 1965 (hereinafter referred to as '1965 Rules'). The candidates, who had applied for the said post, were, therefore, required to be considered for appointment to the post of Chowkidar as per the said prevalent Rules. Respondent No.4-Kharati Lal was initially appointed as Chowkidar by the Sub Divisional Officer (Civil), Bilaspur, on 14.05.2012, upon which an appeal was preferred by Jasmit, petitioner herein, which was allowed on 19.09.2012 by the Deputy Commissioner, Yamuna Nagar. Kharati Lal thereafter filed CWP No.22426 of 2012, which was allowed and the order passed by the

Appellate Authority was set aside and the case was remanded back to the

Deputy Commissioner, Yamuna Nagar, for fresh decision. Letter Patents Appeal No.239 of 2014 preferred by the petitioner was dismissed by the Division Bench of this Court on 27.05.2014. It is in pursuance thereto and in the light of the remand order that the Deputy Commissioner, Yamuna Nagar, was to pass a fresh order keeping in view the observations of the learned Single Judge in his judgment dated 22.01.2014, according to which order dated 17.12.2014 (Annexure P-6) has been passed by the Deputy Commissioner, Yamuna Nagar, wherein instead of considering the claims of the candidates as per the 1965 Rules, he has proceeded to consider the claim of the applicants as per the Haryana Chowkidara (Watchman) Rules, 2011, which had come into effect on amendment as notified on 11.01.2013. As per the said amended Rules, respondent No.4 has been appointed the Chowkidar of the village, leading to the filing of the writ petition challenging the said order.

2. It is the contention of learned counsel for the petitioner that the candidatures had to be considered of the applicants as per the 1965 Rules as per the observations of the learned Single Judge of this Court and in any case, as per the settled principles, the old Rules would be applicable as the 2011 Rules had not come into existence even prior to the initial appointment as Chowkidar of the candidates. His further contention is that the case was remanded primarily by this Court on the plea of the private respondent that three Lambardars have recommended the appointment of the petitioner when there were only two Lambardars in the village, where the Chowkidar was to be appointed to verify the said factual aspect, the matter was actually remanded back to the Deputy Commissioner, which has not been dealt with

by the said authority, but considered the claim of the candidates under the amended Rules, which in any case would not be applicable.

3. Learned counsel for the private respondents has reiterated the assertion which was taken by the petitioner in the writ petition, which was preferred by asserting that the respondent has been found to be more meritorious on the basis of the qualifications and has been rightly appointed.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case as well as the impugned order.

5. There can be no dispute that the Rules, which were applicable at the time of consideration of the candidature of all the candidates at the initial stage of appointment to the post of Chowkidar, were the 1965 Rules and also keeping in view the observations of the Court in its judgment dated 22.01.2014.

6. In view of the above, the present writ petition is allowed.

7. Order dated 17.12.2014 (Annexure P-6) passed by the Deputy Commissioner, Yamuna Nagar, is hereby set aside.

8. The case is remanded back to the Deputy Commissioner, Yamuna Nagar, to consider the candidature of the applicants to the post of Chowkidar of Village Mado Haldari, Tehsil Chhachhrauli, District Yamuna Nagar afresh.

9. Parties are directed to appear before the Deputy Commissioner, Yamuna Nagar, on **26.02.2019** at **10:00 AM**.

10. The Deputy Commissioner shall thereafter proceed to take a decision with regard to the appointment of the Chowkidar of Village Mado Haldari, Tehsil Chhachhrauli, District Yamuna Nagar,

within a period of two months thereafter as per 1965 Rules.

11. *Status quo* with regard to the earlier appointment shall continue till a decision by the Deputy Commissioner, Yamuna Nagar.

December 3rd, 2019
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No