

CWP-28431-2017

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-28431-2017

Date of Decision: 07th May, 2019

Gora Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Surinder Singh Duhan, Advocate,
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 24.09.2013 (Annexure P-3) passed by the Collector, Bhiwani, whereby, candidature of the petitioner has been rejected holding him ineligible for appointment to the post of Lambardar for the reason that he does not fulfill the prescribed educational qualification, appeal preferred the petitioner against the said order has been dismissed by the Commissioner, Hisar Division, Hisar, on 04.07.2014 (Annexure P-5) followed by an order dated 31.10.2017 (Annexure P-7) passed by the Financial Commissioner, Haryana upholding the order passed by the Collector, Bhiwani.

2. It is the contention of the learned counsel for the petitioner that as per Rule 15 (i) of the Punjab Land Revenue Rules, the requirement for appointment to the post of Lambardar so far as educational qualification is concerned, is “candidate should be literate preferably middle pass”.

Counsel, thus, contends that as per the admitted facts and so mentioned in the order passed by the Collector, Bhiwani, dated 24.09.2013 (Annexure P-3), petitioner is 5th class pass and therefore, is a literate person. Middle pass is a preferable qualification but it is not a mandatory educational qualification. He, therefore, contends that the impugned orders passed by the authorities below cannot sustain and deserve to be set aside as they are contrary to the statutory rules.

3. Learned counsel for the State prays for some time to file reply to the writ petition, however, the said request of the counsel for the State is declined on the ground that the present case does not require reference to any fact and the rule in question, which is relevant for decision of the present case is Rule 15 (i) where the educational qualification has been prescribed for appointment to the post of Lambardar (Headman). Perusal of the said rule would leave no manner of doubt that the requirement for appointment to the post of Lambardar is that a candidate should be literate for being eligible for consideration, however, if he is middle class pass candidate, that is his preferable qualification. Admittedly, petitioner is 5th class pass and therefore, cannot be said to be an illiterate person and would fall in the category of literate. If that be so, it cannot be said that the petitioner is not eligible for consideration for appointment to the post of Lambardar. Therefore, the impugned orders passed by the authorities below cannot sustain and deserve to be set aside being contrary to the statutory rules.

4. In view of the above, order dated 24.09.2013 (Annexure P-3)

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passed by the Collector, Bhiwani, order dated 04.07.2014 (Annexure P-5) passed by the Commissioner, Hisar Division, Hisar and order dated 31.10.2017 (Annexure P-7) passed by the Financial Commissioner, Haryana, are hereby set aside and the present writ petition stands allowed.

5. Let the Collector, Bhiwani, apply its mind with regard to the suitability or otherwise of the petitioner for appointment to the post of Lambardar and take a decision in this regard within a period of eight weeks from today.
6. Copy of this order be given **dasti** to the counsel for the State under the signatures of the Bench Secretary of this Court for information and compliance.

07th May, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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