

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

114

**CIVIL WRIT PETITION NO.40351 OF 2018
DATE OF DECISION: FEBRUARY 25, 2019**

Desh Raj

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

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

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

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the orders dated 22.03.2018 and 27.09.2018 (Annexures P-3 and P-4 respectively) passed by the Financial Commissioner-cum-Secretary, Revenue, Haryana, whereby the revision petition as also the review petition preferred by the petitioner stand dismissed; order dated 12.12.2017 (Annexure P-2) passed by the Commissioner, Hisar Division, Hisar rejecting the appeal of the petitioner and order dated 29.08.2017 (Annexure P-1) passed by the Collector, Hisar, vide which Shyam Sunder son of Chander Bhan, respondent No.4, has been appointed as the Lambardar of village Moth Karnail, Tehsil Narnaud, District Hisar.

It is the contention of learned counsel for the petitioner that the authorities below have not taken into consideration the fact that respondent

No.4 was an accused in an FIR, which had been registered against him. He

further contends that he does not have a good track record and, thus, could not have been appointed on the post of Lambardar. He also contends that the petitioner had been performing the duties of Sarbrah Lambardar after the death of his brother, who was Lambardar of the village and, thus, had a preferential right. It is accordingly submitted that the selection and appointment of respondent No.4 as Lambardar cannot sustain and deserves to be set-aside.

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

The first plea, which has been taken by learned counsel for the petitioner is that respondent No.4 does not have a good track record. However, the fact of the matter remains that prior to the date of his appointment as a Lambardar, the FIR, which was registered against him, for which the trial was in progress, has resulted in his acquittal. Therefore, the said plea and the ground will have no effect on the selection and appointment of respondent No.4, Shyam Sunder.

As regards the plea of counsel for the petitioner that the petitioner had been performing the duties of the Sarbrah Lambardar after the death of his brother, who was Lambardar of the village, would not be of much help as it cannot now be claimed as a hereditary right. However, the consideration of the said aspect with regard to the experience gained can be given weightage only if all other aspects between the two candidates are found to be by and large equal.

In the present case admittedly respondent No.4 is a graduate whereas the petitioner is only a matriculate. Further Shyam Sunder,

respondent No.4 was of 34 years of age whereas the petitioner was aged 56 years at the time of appointment on the post of Lambardar. Respondent No.4 being more meritorious than the petitioner has rightly been appointed as Lambardar of Village Moth Karnail.

This Court, thus, does not find any illegality in the order, appointing respondent No.4, Shyam Sunder, as Lambardar of Village Moth Karnail, which would call for any interference in the present writ petition.

The writ petition, therefore, stands dismissed.

February 25, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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