

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.107

CWP-11728-2019 (O&M)
Date of decision : 18.2.2020

Devi Singh

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Rajesh Lamba, Advocate, for the petitioner.

Mr. Arjun Atri, Advocate, for the Caveator-respondent.

SUDHIR MITTAL, J. (Oral)

The petitioner was a candidate for the post of Lambardar. The Collector appointed respondent No.7 vide order dated 13.1.2015 by accepting the recommendations dated 25.8.2014 made by the Assistant Collector, First Grade. Appeal and revision of the petitioner have been dismissed, leading to the filing of the present writ petition.

Learned counsel for the petitioner submits that being a Government employee, is not a dis-qualification for being appointed as Lambardar as is evident from Rule 15 of Punjab Land Revenue Rules (as applicable to Haryana). Thus, the authorities below were not justified in relying upon the said fact for non-suiting the petitioner. Information received by the petitioner under the Right to Information Act, 2005 has revealed that about 15 other Lambardars in Mewat district are Government employees. Moreover, as per the official record, respondent No.7 has given two different dates of birth. This issue was raised before the Financial Commissioner, but he has failed to take the same into consideration while passing the impugned order.

Undisputedly, Rule 15 of aforementioned Rules enumerates the various matters to be taken into consideration while appointing a Lambardar. 'Being a Government servant' is not included therein. However, the matters mentioned in the said Rule-15 are not exhaustive. Other issues can also be taken into consideration apart from the matters mentioned in the said Rule. The Collector has found that respondent No.7 was younger in age and was available in the village and thus, he has been appointed as Lambardar. The choice of the Collector has to be given preference unless the same is shown to be perverse. No perversity has been pointed out and thus, the fact that other Government employees have been appointed as Lambardars cannot be taken in favour of the petitioner. Each case is to be decided on its own facts.

Regarding respondent No.7 having given two different dates of birth in his record, this issue was not raised before the Collector. A new issue cannot be raised for the first time in a revision petition. In any case, the mere fact that a different date of birth has been mentioned in the record of the District Education Officer, than the one mentioned in the certificate issued by the National Institute of Open Schooling, would not reflect adversely on the character of respondent No.7.

Thus, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

18.2.2020
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No