

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

CWP. No.11587 of 2020 (O&M)
DATE OF DECISION: 14.09.2020

SonuPetitioner

versus

State of Haryana & Ors.Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Jai Bhagwan Sharma, Advocate for the petitioner

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ALKA SARIN, J.:

Heard through video conferencing.

The present civil writ petition has been filed assailing the appointment of respondent no.5 as Chowkidar of Village Konderawali, Sub Tehsil Sahlawas, District Jhajjar vide order dated 18.07.2018 (Annexure P-2) and the dismissal of the petitioner's appeal against the same vide order dated 21.05.2019 (Annexure P-1).

According to the averments made in the civil writ petition, applications were invited from eligible candidates for appointment as the village Chowkidar. The last date for submitting the applications was 07.08.2017. Five applications were received which included the petitioner and respondent nos.5 to 7. One candidate (Sunder Singh) withdrew his

application leaving four candidates in the fray. Respondent no.4 scrutinised the applications of the four candidates, Police verification was got done, and reports regarding illegal encroachments and pendency of loan dues were called. Thereupon, respondent no.4 recommended that respondent no.6 (Pritam) be appointed as village Chowkidar.

The papers were then sent to respondent no.3 before whom all the candidates appeared either through counsel or in person. Vide order dated 18.07.2018 (Annexure P-2) respondent no.3 appointed respondent no.5 (Mahinder) as village Chowkidar. While passing the order Annexure P-2 and appointing respondent no.5 (Mahinder) as village Chowkidar, respondent no.3 held that he “...is 12 Class pass. He is 37 years young man and healthy matured person. He bears good moral character, 83 persons of the village have given statement in his favour to appoint him Chowkidar. He has given donation for social and religious work. He has no illegal encroachment on any Panchayat or Govt. land. Therefore, I keeping in view the education, witnesses and religious work, think that Sh. Mahinder s/o Sh. Lal Chand better candidate than other candidates for the post of Chowkidar and appoint Mahinder s/o Lal Chand as new Chowkidar of Village Konderawali ...”.

Against the order dated 18.07.2018 (Annexure P-2), two appeals were filed before respondent no.2 – one by the present petitioner (Sonu) and the other by respondent no.6 (Pritam). In the appeals it was inter-alia contended that the successful candidate i.e. respondent no.5 (Mahinder) had illegally encroached upon a rasta. Reliance was placed upon a demarcation report dated 12.08.2018 which is attached as Annexure P-4 with the present writ petition. However, vide order dated 21.05.2019

(Annexure P-1), respondent no.2 dismissed the appeals. Hence, the present civil writ petition.

In the present civil writ petition, on 10.08.2020, the primary ground raised by the petitioner was that since respondent no.5 (Mahinder) had encroached upon a rasta he ought not to have been appointed as the village Chowkidar. Reliance was put on the demarcation report dated 12.08.2018 (Annexure P-4). However, when confronted with the fact that the said demarcation report is subsequent to the date of appointment i.e. 18.07.2018, the counsel for the petitioner had sought an adjournment to place on record documents to substantiate and buttress his contention. However, despite another opportunity having been given, the counsel for the petitioner has not placed on record any other document.

Thus, with regard to the alleged encroachment by respondent no.5 (Mahinder), this Court is left with no other document except the demarcation report dated 12.08.2018 (Annexure P-4). However, a perusal of this demarcation report reveals that the demarcation was done after the date of appointment of respondent no.5 (Mahinder) as village Chowkidar. This demarcation report was not in existence and not before respondent no.3 when he passed the impugned order Annexure P-2 appointing respondent no.5 (Mahinder) as Village Chowkidar. The demarcation report shows that the demarcation was undertaken at the behest of the petitioner (Sonu) after the respondent no.5 (Mahinder) had been appointed as Village Chowkidar.

Further, the demarcation report (Annexure P-4) refers to one Mahinder son of Lala Ram whereas in the writ petition as well as the impugned orders Annexures P-1 and P-2 the party impleaded was

Mahinder son of Lal Chand. This Court, in proceedings under Article 226 of the Constitution of India, cannot undertake verification and become a fact-finding agency to conclude as to whether Mahinder son of Lala Ram and Mahinder son of Lal Chand are the same individual or not.

The counsel for the petitioner has also not been able to explain the delay in approaching this Court. The impugned order (Annexure P-1) was passed on 21.05.2019 whereas the petitioner has approached this Court after more than a year thereafter i.e. in August 2020. The civil writ petition is also silent as to what the petitioner had been doing all this time.

It has also not been established that the authorities, while taking the impugned decisions, failed to take into consideration the relevant factors for appointment of a village Chowkidar as laid down in the Haryana Chowkidara (Watchman) Rules, 2011. It has also not been established that the impugned decisions are based on extraneous or irrelevant considerations. It is well settled that the opinion of the Appointing Authority of a village Chowkidar ought to be respected and honoured. The Appellate Authority should not interfere with the order passed by the Appointing Authority unless there is certain perversity or illegality committed, which should be apparent on the record. In the present case, there appears to be none as respondent no.3 has considered the comparative merits of all the candidates, he applied his mind not only to the claim of the respective candidates but to the other aspects as well and judged the suitability of the candidates. The scope of interference in writ jurisdiction in such like cases is very limited.

This Court, thus, does not find any justification for exercising its extraordinary writ jurisdiction to interfere in the matter as there is no

perversity or illegality therein. Finding no merit in the present writ petition,
the same stands dismissed.

(ALKA SARIN)
JUDGE

14.09.2020
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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