

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

CWP No. 640 of 2020 (O&M)

Date of Decision : 24.08.2020

Bijender

....Petitioner

Versus

Financial Commissioner-cum-Principal Secretary and others

.....Respondents

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Rajnish Gupta, Advocate for the petitioner.

Harsimran Singh Sethi, J. (Oral)

Present writ petition has been filed for setting-aside the order passed by the Deputy Commissioner, Rohtak dated 25.05.2016 (Annexure P-4) by which Nar Singh i.e. respondent No. 4 was found on a better footing than the petitioner to be appointed as a Lambardar of Village Girawar, Tehsil Meham, District Rohtak. Further challenge is to the order dated 02.05.2018 (Annexure P-5) passed by the Commissioner Rohtak Division, Rohtak by which, the appeal filed by the petitioner, was rejected. The order passed in the revision petition preferred by the petitioner, rejecting the same dated 06.09.2019 (Annexure P-7) is also under challenge in this petition.

Learned counsel for the petitioner argues that the claim of the petitioner has wrongly been rejected by the respondents though, he is better suited than respondent No. 4 to be appointed as a Lambardar of Village Girawar, Tehsil Meham, District Rohtak. Learned counsel for the petitioner

submits that the petitioner has a preferential right to be appointed as a

Lambardar as the father of the petitioner remained as the Lambardar of Village Girawar, Tehsil Meham, District Rohtak. Learned counsel for the petitioner further submits that the order rejecting the revision petition of the petitioner passed by the Financial Commissioner-cum-Principal Secretary, Revenue, Haryana, is cryptic and non-speaking and, therefore, the same is also liable to be set-aside.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

It is not disputed by the learned counsel for the petitioner that all the authorities have found respondent No. 4 better suited than the petitioner. That being so, this Court will not like to interfere in the decision of the authorities unless and until, any illegality in appointing respondent No. 4 as a Lambardar of Village Girawar, Tehsil Meham, District Rohtak, is pointed out by the learned counsel for the petitioner. Learned counsel for the petitioner rather than pointing out an illegality in appointment of respondent No. 4, has argued that he is a better suited candidate than respondent No. 4 for appointment as a Lambardar of Village Girawar, Tehsil Meham, District Rohtak. This Court is not to go into the evaluations, which are done by the authorities of the candidates with due application of mind while appointing Lambardar unless and until, it is brought before this Court that the evaluation is on wrong facts or any ineligible candidate has been appointed.

In the present case, no illegality in the appointment of respondent No. 4 has been pointed out by learned counsel for the petitioner.

Respondent-authorities have found that respondent No.4 is better suited for

appointment as Lambardar as he is better qualified than the petitioner. This fact is not disputed by the learned counsel for the petitioner. Further, while preferring respondent No. 4 over the petitioner, the respondent-authorities have mentioned that the petitioner has given more than one date of birth, before different authorities, which has also been treated as a disadvantage against the petitioner, while comparing his case with that of respondent No. 4 while making selection and appointment to the post of Lambardar.

In respect of the claim of the petitioner on the basis of hereditary, learned counsel for the petitioner very fairly concedes that the appointment by hereditary is not exclusive but only gives a preferential right. Preference can only be given in case two candidates are found to be similarly situated i.e. on the same footing. In the present case, respondent No. 4 has been found better suited than the petitioner, therefore, the claim of the petitioner to be appointed on the basis of hereditary by giving him preference, is not correct and cannot be accepted.

As far as the contention that order is cryptic and non-speaking, the same can also not be accepted as after noticing the contention of the petitioner, the authorities have given the reasons for not accepting his claim. Once the order is reasoned, the same cannot be termed as cryptic and non-speaking, therefore, the contention raised by learned counsel for the petitioner that the order passed by the authorities especially the order passed by respondent No.1 while deciding the revision petition is a cryptic and non-speaking order, cannot be accepted and the same is rejected, being factually incorrect.

In view of the above, no ground is made out to interfere in the

orders passed by the authorities and the writ petition is accordingly dismissed.

As the main case is dismissed, application i.e. CM No. 6856-CWP-2020 has become infructuous.

August 24, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No