

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.8997 of 2021
Date of decision-28.4.2021

Mahesh Tyagi

...Petitioner

Vs.

State of Haryana and others

...Respondents

(Through Video-Conferencing)

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jatinder Pal Singh, Advocate for
Mr. Ajay Bhardwaj, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

The present writ petition has been filed challenging the orders passed by the Commissioner, Gurugram Division, Gurugram dated 22.12.2017 (Annexure P-9) as well as the order passed by the learned Financial Commissioner, Haryana dated 16.03.2020 (Annexure P-10) by which, it was directed that the post of the Nambardaar of village Mohammadheri, District Gurugram be filled up in accordance with law after getting a fresh Munadi conducted.

As per the averments made in present petition, the post of Nambardaar became vacant on the demise of Sh. Nand Kishor on 29.08.2016, who was working as a Nambardaar of Village Mohammadheri,

District Gurugram. After his death, the said post was required to be filled up after due information to the residents of the village who intended to apply for consideration of their cases for appointment as a Nambardaar. As per the petitioner, he filed an application for consideration of his case for appointment as a Nambardaar of the village concerned.

As per the document which the petitioner himself has attached with the petition, shows that a representation was received from various residents of the village complaining that the Munadi which has been got done in respect of appointment of the Nambardaar of the village was not done in accordance with law and information in respect of filling up the post of Nambardaar of the village was not made available to the residents of the village hence, a fresh Munadi should be got done so as to give due opportunity to everyone who is eligible and is interested for consideration of their case for appointment as Nambardaar of the village. Said letter dated 30.08.2017 has been attached as Annexure P-7 by the petitioner himself.

Keeping in view the representation Annexure P-7, the Deputy Commissioner, Gurugram Division, Gurugram after ascertaining the facts, passed an order directing that the Munadi which was got conducted was not in accordance with the procedure and the rules prescribed and therefore, fresh Munadi should be got conducted in the village for the information of the residents for inviting application for consideration for appointment to the post of Nambardaar. Feeling aggrieved against the said order dated 30.08.2017 passed by the Deputy Commissioner, Gurugram, the petitioner filed an appeal before the Commissioner, Gurugram Division, Gurugram raising an objection that once the Munadi was already got conducted, and three applications have been received, the appointment of the Nambardaar

may be out of the said three applicants only and the order passed by the Deputy Commissioner, Gurugram dated 30.08.2017 ordering fresh Munadi be set aside. The petitioner remained unsuccessful in his appeal and the Commissioner, Gurugram Division, Gurugram vide his order dated 22.12.2017 upheld the order passed by the Deputy Commissioner, Gurugram dated 30.08.2017 by which, the fresh Munadi was ordered to be conducted so as to receive the applications from the concerned residents who intend to get their cases considered for appointment to the post of Nambardaar.

Feeling aggrieved against the orders passed by the Deputy Commissioner, Gurugram dated 30.08.2017 as well as the order passed by the Commissioner, Gurugram Division, Gurugram dated 22.12.2017, the petitioner filed a revision petition i.e. ROR No.227 of 2017 before the Financial Commissioner, Haryana. Financial Commissioner, Haryana vide his order dated 16.03.2020 (Annexure P-10) has upheld the decision of the Deputy Commissioner, Gurugram dated 30.08.2017 as well as that of the Commissioner, Gurugram Division, Gurugram dated 22.12.2017 to hold a fresh Munadi, before considering the cases of the eligible persons for appointment as Nambardaar in village Mohammadheri. The present petition has been filed challenging the orders passed by the Commissioner, Gurugram Division, Gurugram dated 22.12.2017 as well as the order passed in the revision petition by the Financial Commissioner, Haryana dated 16.03.2020.

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

Learned counsel for the petitioner argues that once a Munadi was already done, no fresh Munadi can be done and hence, the order passed by the Commissioner, Gurugram Division, Gurugram dated 22.12.2017 as

well as the order passed by the Financial Commissioner in ROR No.227 of 2017 for fresh Munadi to be done in the village before considering the cases of the eligible persons are liable to be set aside. Once, a question of fact has been answered by the authorities below that the initial Munadi which was got conducted was without following the due procedure as envisaged under law hence, fresh Munadi should be got done in the facts and circumstances of this case, the same cannot be gone into by this Court so as to arrive at a different conclusion. This Court cannot set aside finding of a fact by acting as an appellate authority over and above the Commissioner, Gurugram, Division Gurugram and the Financial Commissioner, Haryana. The question of fact cannot be gone into by the Court once, the said fact has been cemented by the two authorities against the petitioner. The authorities below have given concurrent finding that the initial Munadi got conducted was not as per the procedure and the residents of the village were not made aware of the filling of the post of Nambardaar by the authorities concerned. It has been duly mentioned in the impugned orders that Munadi was also not got signed by the respectables of the village as witnesses which shows that the Munadi was got conducted in a clandestine manner. Nothing has been placed on record by the petitioner to rebut the said fact so as to allow this Court to arrive at a different conclusion.

Even otherwise, the net result of the impugned order is that after the fresh Munadi, the cases of all eligible persons who will apply, will be considered for appointment as a Nambardaar of the Village Mohammadheri. It is not the case that the petitioner has been debarred, restrained or declared ineligible for consideration for appointment to the post of Nambardaar of the village. Once, the petitioner is being considered eligible along with others, no

grievance can be raised by the petitioner that the consideration should only be restricted to three persons, who had applied for in respect of the first Munadi, even though said Munadi was not conducted in accordance with the procedure prescribed/law.

No ground is made out for interference by this Court in the impugned orders. Present writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

28.04.2021
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No