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

CWP-5938-2023

Date of decision : 18.04.2023

Prem Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. J.S. Thind, Advocate for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana
for respondent Nos.1 to 3.

Mr. Sushil Kumar Verma, Advocate for respondent No.4.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the orders dated 28.03.2018 and 02.03.2023 (Annexures P-5 and P-6) passed by respondent Nos.2 and 1 respectively.

2. Learned counsel for respondent No.4 has submitted that in the present case, there were three candidates for the post of Lambardar, out of which, first was the present petitioner, second was respondent No.4-Sandeep Kumar and third was Rulli Chand. It is further submitted that against the order passed by the Collector in addition to the appeal filed by the present petitioner, even Rulli Chand had filed an appeal i.e. Appeal No.13422 of 2017 and both

the said appeals were clubbed together and the order of the Collector was set aside by a common order passed by the Commissioner dated 28.03.2018. It is further contended that against the said order, only one ROA was filed by the present petitioner and the said Rulli Chand was not made a party in the said ROA. It is argued that as per settled law in case, two appeals have been filed and both the said appeals have been allowed and the matter has been remanded back, it is incumbent upon the other party challenging the said order of remand to file two ROAs and to implead all the necessary persons as parties and it is further submitted that even in the present writ petition, said Rulli Chand has not been made a party and since, there is no challenge to the order passed in the appeal filed by Rulli Chand i.e. Appeal No. 13422 of 2017 then the principle of constructive resjudicata would apply.

3. Learned counsel for the petitioner, in view of the abovesaid facts, seeks to withdraw the present Civil Writ Petition with liberty to file ROA against the order passed in appeal filed by Rulli Chand and submits that after an order is passed in the said case, the right of the petitioner to challenge the impugned orders in the present Civil Writ Petition i.e. (Annexures P-5 and P-6) along with the order passed by the Financial Commissioner in the ROA to be filed with respect to the case of Rulli Chand be kept open.

4. In view of the above, the present Civil Writ Petition is dismissed as withdrawn with liberty to file ROA as prayed for. The right of the petitioner as prayed for, is kept open.

18.04.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**