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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.13360-CWP of 2023 in/and
CWP No.10569 of 2022

Date of Decision : 16.08.2023

Sandeep

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Mukul Aggarwal, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Gaurav Datta, Advocate with
Mr. Gurkirat Singh, Advocate
for respondent No.5.

RAJESH BHARDWAJ, J. (Oral)

CM-13360-CWP-2023

Present application has been filed for placing on record copy
of written statement dated 11.08.2023 on behalf of respondent No.5 along
with Annexures R-5/1 to R-5/3.

For the reasons recorded in the application, written statement
dated 11.08.2023 on behalf of respondent No.5 along with Annexures
R-5/1 to R-5/3 are ordered to be taken on record.

Application stands allowed.

CWP No.10569 of 2022

Present writ petition has been filed for issuance of a writ in the

nature of mandamus directing respondent No.4 to take decision on the

application dated 21.12.2021 filed by the petitioner and to decide the case as per the directions dated 20.05.2019 given in order passed by respondent No.2 and directions dated 31.10.2017 given in order passed by respondent No.3 with further prayer for setting aside/modification of orders dated 20.05.2019 (Annexure P-3) passed by respondent No.2 and for setting aside the order dated 08.12.2021 (Annexure P-10) passed by respondent No.4.

It has been contended by learned counsel for the petitioner that post of Lambardar under the general category fell vacant on account of death of Sh.Ishwar Singh on 04.12.1995. On account of the same, mushtari-munadi was conducted and applications were invited for the post of Lambardar. He submits that in pursuance to the munadi conducted, the petitioner and other candidates applied for the same. However, learned Collector on analysis of the *interse* merits and character antecedents of all the candidates finally appointed respondent No.5 as Lambardar of village Dikadla, Tehsil Samalkha, District Panipat vide his order dated 19.05.2017. He submits that the petitioner challenged the same by way of filing the appeal before the Commissioner. However, the same was allowed vide order dated 31.10.2017 by setting aside the order of Collector and matter was remanded for fresh decision. He submits that respondent No.5 challenged the same by way of filing the revision before the Financial Commissioner. However, after hearing, learned Financial Commissioner upheld the decision of Commissioner whereby the matter was remanded for a fresh decision vide order dated 20.05.2019 by conducting a fresh munadi. Aggrieved by the same, respondent No.5 filed

Civil Writ Petition bearing **CWP No.18466 of 2019** before this Court. This Court finding no merit in the petition, dismissed the same vide order dated 10.07.2019. It is submitted that thereafter the State had issued executive instructions dated 23.11.2021 which reads as under:

“Matter regarding appointments of Lambardars including Sarbarah Lambardars in the State is reviewed by the Government and it has been decided that all fresh appointments of Lambardars including Sarbarah Lambardars in Haryana may be frozen in the State from the date of issue of orders till the assessment of the requirement of Lambardars and their duties in the modern circumstances is undertaken. This will apply to all appointments which are presently under consideration of the competent authorities but where appointment has not been made till date.”

He submits that thereafter the Collector took a decision on 08.12.2021 wherein it was observed that in view of the instructions dated 23.11.2021, the matter was considered as a fresh appointment and thus, in the light of instructions dated 23.11.2021, the matter could not be proceeded and thus was adjourned sine die. He submits that petitioner filed a representation dated 21.12.2021 wherein it was specifically stated that the executive instructions dated 23.11.2021 were not applicable to the case of petitioner as the matter was pending before the Quasi Judicial Authorities since 2017. He submits that the case cannot be considered as a fresh appointment of Lambardar as it was the order of learned Financial Commissioner and the Commissioner, who remanded the case for decision afresh after conducting fresh munadi. It is submitted that the decision of

Collector adjourning the case *sine die* is totally misinterpretation of the instructions and the order passed by learned Financial Commissioner. He submits that for the redressal of his grievance, the petitioner filed a representation but no action has been taken on the same till date and thus, the petitioner is suffering from irreparable loss.

Learned counsel for respondent No.5 has opposed the submissions made by learned counsel for the petitioner. However, he submits that the instructions are totally applicable to the case in hand as it would be considered a fresh appointment as the Financial Commissioner has directed to carry out a fresh munadi.

Learned State counsel, on instructions, has submitted that respondent No.4-the Collector, Panipat has adjourned the case *sine die* by passing a order dated 08.12.2021 which was passed in view of the instructions dated 23.11.2021.

In view of the submissions made by learned counsel for both the parties and perusing the material on record, this Court is of the opinion that the order passed by respondent No.4-the Collector, Panipat is not a speaking one. The case of petitioner was already pending adjudication before the authorities since 2017 and no speaking & reasoned order has been passed by the Collector, Panipar while adjourning the case as *sine die*.

Keeping in view the facts and circumstances of the case, the present petition stands disposed of and impugned order dated 08.12.2021 (Annexure P-4) being cryptic is hereby set aside. However, The Collector, Panipat is directed to decide at the first instance the issue as to how the instructions dated 23.11.2021 are applicable to the case of petitioner which

was already pending when the said instructions came into being, by passing a speaking order as per law within within a period of four weeks from today. The parties would be at liberty to avail their remedies in accordance with law.

(RAJESH BHARDWAJ)

JUDGE

16.08.2023

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Whether speaking/reasoned

:

Yes/No

Whether reportable

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Yes/No