

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

CWP-25462-2016

Date of decision : 07.11.2023

Liakat Ali

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jagraj Singh Khiva, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Respondent No.4 *ex parte*.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 20.07.2016 (Annexure P-14) whereby the Deputy Commissioner, Mansa set aside the well reasoned order dated 06.07.2015 (Annexure P-13) passed by the Sub-Divisional Magistrate, Sardulgarh whereby the petitioner was appointed on the post of Chowkidar of Village Bajewala after following due process. Further prayer has been made for directing respondent No.2 to appoint the petitioner on the post of Chowkidar of Village Bajewala.

It has been submitted by learned counsel for the petitioner that earlier Chowkidar namely, Gurdev Singh resident of Village Bajewala died on 14.12.2013. Resultantly, Pushpinder Singh Circle Patwari Bajewala submitted his report regarding his death on 17.12.2013.

The Collector Sub Division, Sardulgarh vide his order dated 24.03.2014

directed Tehsildar, Sardulgarh for initiating the proceedings for calling upon the applications for filling up the post of Chowkidar which fell vacant due to the death of earlier Chowkidar. The Assistant Collector 2nd Grade, Sardulgarh vide letter dated 04.09.2014 issued direction to Jamandar Tehsil Officer Sardulgarh for *mustri munadi* regarding initiating the process for the appointment of new Chowkidar. The applications were invited upto 22.09.2014. He has submitted that direction was issued for conducting *mustri munadi* on 01.10.2014. In pursuance to the same, four candidates namely, (i) Gurtej Singh (respondent No.5) (ii) Mela Singh (iii) Kaka Khan (iv) Liakat Ali (petitioner) applied for the said post. Their character verification was got conducted by the Assistant Collector 2nd Grade. He has submitted that the opportunities were granted to the candidates for producing proof in their support. On 19.02.2015, Kaka Khan and Liakat Ali came present whereas, rest of the two candidates namely, Mela Singh and Gurtej Singh did not come present. Hence, they were proceeded *ex parte*. On the assessment of merits of the remaining two candidates, the Assistant Collector 2nd Grade recommended the name of petitioner for the appointment of new Chowkidar vide his report dated 02.03.2015. Thereafter, the Sub Divisional Magistrate, Sardulgarh vide order dated 06.07.2015 appointed the petitioner as new Chowkidar of Village Bajewala. Aggrieved by the appointment of petitioner, respondent No.4 filed the appeal before the Deputy Commissioner on the ground that the impugned order is illegal as no *mustri munadi* was conducted in the village and hence, no opportunity was granted to him. He has submitted that learned Deputy Commissioner illegally accepted the appeal filed by

respondent No.4 vide impugned order dated 20.07.2016 by remanding the case for conducting fresh *mustri munadi* in the Village. He has submitted that the Collector Sub Division, Sardulgarh vide his order dated 24.03.2014 had issued direction for initiating the proceedings for filling up the vacant post and *mustri munadi* was done in the Village. He further submits that on 04.09.2014 and 01.10.2014 *mustri munadi* was again directed to be conducted in the Village and four candidates applied for the said post but Rafeek Khan (respondent No.4) did not apply being son of the earlier Chowkidar. He submits that Rafeek Khan applied for the post after the appointment of petitioner. It is submitted that learned Deputy Commissioner failed to appreciate the same and thus, has illegally held that no *mustri munadi* was conducted for inviting the applications from the eligible candidates. He has further submitted that learned Deputy Commissioner has also failed to appreciate that respondent No.4 did not apply in time for his appointment and hence, drawn a wrong conclusion in setting aside the well reasoned order dated 06.07.2015 passed by Sub Divisional Magistrate.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that the process for appointment of Chowkidar, the process was initiated after the death of earlier Chowkidar. Though as contended, the *mustri munadi* was conducted and in pursuance to the same, four applications were received. However, as apparent from the record, petitioner and respondent No.7 only remained in fray. As evident respondent No.7 withdrew his application in favour of petitioner i.e. his son and thus, petitioner was appointed on the post of Chowkidar. It was specifically contended by respondent No.4 before the Deputy

Commissioner that the *mustri munadi* was not conducted and the whole process was conducted secretly so as to restrain the other candidates from applying for the same. Thus, the whole process of appointment was vitiated. As observed by the Deputy Commissioner, respondents No.5 and 6 were proceeded *ex parte*. Though this Court issued notice to respondent No.4 as well and as per office report, he was served but nobody appeared on his behalf. However, keeping in view the overall facts and circumstances of the case when *mustri munadi* i.e. publication for inviting the applications from the candidates in fray is surrounded by doubts, the procedure adopted cannot be said to be fair and hence, the same cannot be accepted, being unsustainable in the eyes of law. Learned Deputy Commissioner had *set aside* the same by remanding the case with direction to conduct fresh *mustri munadi* in accordance with law and conduct the process for appointment on merits.

This Court does not find any infirmity in the orders passed by the Courts below as the same would meet the ends of justice. Resultantly, the present petition is dismissed. However, keeping in view the facts and circumstances of the case, the fresh process as directed for appointment of new Chowkidar be concluded expeditiously preferably within four months from the date of receipt of certified copy of this order.

(RAJESH BHARDWAJ)
JUDGE

07.11.2023
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No