

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

**CWP-16661-2023**

Date of Decision: 28.08.2023

Rajesh Kumar

..... Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr.Kapil Kumar, Advocate, for the petitioner.

**Rajesh Bhardwaj, J.**

Prayer in the present petition is for quashing the order dated 15.02.2023 (Annexure P-1) passed by respondent No.2-Commissioner, Ambala Division, whereby, the order order 12.02.2020 (Annexure P-2) passed by respondent No.3-Deputy Commissioner, Yamuna Nagar has been set aside.

Adumbrated facts of the case are that on the death of Biccha Ram, earlier Chowkidar of village Khanpura, Tehsil Chhachhrauli, District Yamuna Nagar, post of Chowkidar fell vacant and thus, Tehsildar, Chhachhrauli invited applications of interested persons. In pursuance to the same, five applications were received for the appointment of said post. On scrutiny of the applications and considering the inter-se merits of the candidates, the Tehsildar Chhachhrauli recommended name of Rajesh Kumar i.e. the petitioner for the appointment of Chowkidar. However, respondent No.4 i.e. Assistant Collector Ist Grade-cum-Sub Divisional Officer (Civil) recommended the name of Ravinder i.e. respondent No.6. to the Deputy Commissioner, Yamuna Nagar. Resultantly, the Deputy Commissioner, Yamuna Nagar vide his order dated 12.02.2020 (Annexure P-2) appointed the petitioner as new Chowkidar of the village. Aggrieved

by the same, respondent No.6-Ravinder filed an appeal assailing the order dated 12.02.2020 before the Commissioner, Ambala Division, Ambala on 02.06.2020. The learned Commissioner after hearing both the sides vide order dated 15.02.2023 (Annexure P-1) set aside the order dated 12.02.2020 passed by the Deputy Commissioner. Hence, the petitioner has approached this Court by way of filing the present petition.

It has been contended by learned counsel for the petitioner that on the death of Biccha Ram, earlier Chowkidar of the village, process for the appointment of new Chowkidar was initiated and in response to the same, five applications were received. He submits that the petitioner being more meritorious, his name was recommended by Tehsildar, Chhachhrauli and about 80 persons of the village for the appointment, however, Assistant Collector Ist Grade-cum-Sub Divisional Officer (Civil), recommended the name of respondent No.6. He submits that however, the learned Deputy Commissioner after analyzing the inter-se merits of both the petitioner and respondent No.6, finding the petitioner to be more meritorious appointed him on the said post vide order dated 12.02.2020. He has submitted that in the appeal filed by respondent No.6, the learned Commissioner has considered only the higher qualification of respondent No.6 and set aside the order passed by the Deputy Commissioner. He submits that requisite qualification for the appointment of Chowkidar is 8<sup>th</sup> pass and the petitioner has duly fulfilled the same. He submits that the petitioner being the son of the ex-Chowkidar had enough experience for being appointed as Chowkidar of the Village, but the same has not been appreciated by the learned Appellate authority. He submits that the petitioner is 46 years of age and besides this about 80 persons including the ex-Sarpanch etc. had made

recommendation in his favour. He submits that the petitioner is an active social worker and has an impeccable record. It is submitted that the learned Deputy Commissioner had rightly appointed the petitioner as Chowkidar of the village, but the learned Commissioner failed to appreciate the same and passed the impugned order dated 15.02.2023, which is totally unsustainable in the eyes of law and thus, deserves to be set aside.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that on the death of Biccha Ram, Chowkidar of the village, applications were invited for the appointment of Chowkidar. In pursuance to the same five applications were received. After analyzing the inter-se merits of the candidates, the petitioner was appointed as a Chowkidar by the learned Deputy Commissioner vide order dated 12.02.2020. Aggrieved by the same, respondent No.6 filed an appeal, which was accepted by the learned Commissioner vide order dated 15.02.2023 by observing that the petitioner was 41 years of age and 8<sup>th</sup> pass, whereas, respondent No.6 was 26 years of age and 10+2 pass and besides this, he had done basic computer course. Name of the petitioner was recommended by 81 persons, whereas, that of respondent No.6 had been recommended by 127 persons of the village. The petitioner was 8<sup>th</sup> pass on the date of the appointment, whereas, respondent No.6 was found to be 10+2 with basic computer diploma. The appointment to the post of Chowkidar would be up to the age of 65 years. In the facts and circumstances of the case, it is apparent that respondent No.6 is younger in age and is more qualified than the petitioner. Thus, keeping in view the overall facts and circumstances, the Commissioner found respondent No.6 to be more suitable for the post

and hence, accepted the appeal filed by him, finding the order passed by the Deputy Commissioner to be perverse. Respondent No.6 was more educated and was younger in age as compared to the petitioner, thus, he was more suitable person for discharging the duties of a Chowkidar and as such the learned Commissioner has committed no illegality in holding respondent No.6 to be the suitable person for the appointment of Chowkidar. In the considered opinion of this Court, there is no infirmity in the order passed by the learned Commissioner and thus, the petition being devoid of any merit is hereby dismissed.

28.08.2023  
sharmila

Whether Speaking/Reasoned  
Whether Reportable

(RAJESH BHARDWAJ)  
JUDGE

: Yes/No  
: Yes/No