



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10711-2019 (O&M)
Date of Decision: 03.09.2024

MANOJ KUMAR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Randhir Singh, Addl. A.G., Haryana.

Ms. Meenakshi Saroop, Advocate
for Mr. Baldev Singh, Advocate
for respondent No.4.

HARSH BUNGER, J.

Petitioner (Manoj Kumar) has filed the present petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *certiorari* for setting aside the order dated 28.03.2017 (Annexure P-1) passed by the learned Collector, Karnal; whereby respondent No.4 was appointed as *Lambardar* (SC) of Village Gudha, Tehsil Indri, District Karnal.

A further prayer has been made for setting aside the order dated 01.04.2019 (Annexure P-3) passed by the learned Financial Commissioner (Revenue), Haryana; whereby the order dated 09.04.2018 (Annexure P-2)

passed by the learned Commissioner, Karnal Division, Karnal was set aside and the Collector's order dated 28.03.2017 (Annexure P-1) was upheld.

2. Briefly, upon demise of Inder Singh, previous Lambardar (SC) of Village Gudha, proceedings were commenced for filling up the vacancy. In pursuance to the proclamation made in the Village for filling up the vacancy, various applications were received (including the applications submitted by the petitioner and respondent No.4).

2.1 The learned Assistant Collector 2nd Grade, Indri as well as learned Assistant Collector 1st Grade, Indri, recommended the name of petitioner (Manoj Kumar) for appointment to the afore-said vacancy and forwarded the matter to the learned Collector.

2.2 The learned Collector, Karnal vide order dated 28.03.2017 (Annexure P-1) appointed respondent No.4 (Phool Kumar) as Lambardar (SC) of Village Gudha.

2.3 Feeling aggrieved against the afore-said order dated 28.03.2017 (Annexure P-1), the present petitioner preferred an appeal before the learned Commissioner, Karnal, whereby vide order dated 09.04.2018 (Annexure P-2), the matter was remanded to the learned Collector, Karnal for deciding the case afresh, on merits.

2.4 The afore-said order dated 09.04.2018 (Annexure P-2) was challenged by respondent No.4 (Phool Kumar) before the learned Financial Commissioner, Haryana by filing a revision petition (ROR No.499 of 2017-18), which came to be allowed vide order dated 01.04.2019 (Annexure P-3), whereby the Commissioner's order was set aside and the Collector's order was upheld.

2.5 In the afore-mentioned circumstances, the petitioner has filed the present petition before this Court, for the relief/s, as noticed here-in-above.

3. Learned counsel for the petitioner submits that the learned Collector has erred in law and fact in appointing respondent No.4 as Lambardar (SC) of Village Gudha and that too, on irrelevant consideration by ignoring the better merits of the petitioner. It is submitted that the learned Commissioner had rightly remanded the matter to the Collector, for deciding the case afresh on merits, however, the learned Financial Commissioner has wrongly set aside the order passed by the learned Commissioner and further upheld the Collector's order. It is submitted that the petitioner is younger in age and more educated than respondent No.4 and even his name was recommended by the lower Revenue officials, which is very weighty circumstanced; however, all the afore-said aspects have been ignored by the learned Collector, while appointing respondent No.4 as Lambardar (SC). It is further submitted that the learned Financial Commissioner has wrongly upheld the Collector's order, which is not in consonance with the relevant rules for the appointment of Lambardar. Accordingly, it is submitted that the impugned orders be set aside and the matter be remitted to learned Collector, for deciding the same afresh on merits.

4. Per contra, learned counsel for respondent No.4 has opposed the submissions made by learned counsel for the petitioner by submitting that there is no illegality or perversity in the order passed by the learned Collector as well as the learned Financial Commissioner. It is stated that the learned Financial Commissioner has upheld the Collector's order in consonance with the well settled position that the choice of Collector in the

matter of appointment of Lambardar is not to be lightly interfered with. It is, therefore, submitted that there is no merit in the present petition and the same deserved to be dismissed.

5. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

6. Here, it would be apposite to state the relative merits of the candidates, which can be summed up as under :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Manoj Kumar)</i>	<i>Resp. No.4 (Phool Kumar)</i>
<i>1</i>	<i>Age</i>	<i>31 years</i>	<i>41 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>12th pass</i>	<i>8th pass</i>
<i>3</i>	<i>Recommended by</i>	<i>Assistant Collector Ist Grade, Indri Assistant Collector 2nd Grade, Indri</i>	<i>---</i>
<i>4</i>	<i>Other remarks</i>	<i>Two Family Planning Cases Training in First Aid etc. and work in NSS</i>	<i>Two Family Planning Cases</i>

6.1 From the above comparison, it is apparent that the petitioner had an edge over respondent No.4, however, the learned Collector, Karnal, vide its order dated 28.03.2017 (Annexure P-1) held as under :-

“ After the perusal of file and after hearing the arguments of the parties, I reached to the conclusion that Phool Kumar candidate is more eligible and correct candidate in comparison to other candidates. He is permanent resident of Village Gudha. This candidate is not having any illegal possession over Panchayati or Govt. land. He also gives information regarding the govt. welfare schemes to the villagers. Also cooperated in family planning. He also donated blood and is a social worker. Having good character. Most of the respected persons of the village are in favour of appointing him to

be the SC Lambardar of the village. Hence Phool Kumar son of Sh. Koti Ram resident of village Gudha, Tehsil Indri, District Karnal is appointed as SC Lambardar of Village Gudha in place of deceased Lambardar Inder Singh. File be consigned to the record room after its compliance.”

7. It is apposite to state here that the considerations which have to be taken into account in the appointment of Scheduled Caste Lambardar, in accordance with Rule 19-B of the Punjab Land Revenue Rules (as applicable to Haryana) are :-

- (a) services rendered to the State by himself or by his family;
- (b) his personal influence, character, ability and freedom from indebtedness."

8. The only point which appears to have weighed with the learned Collector is that most of the respected persons of the village are in favour of appointing respondent No. 4 (Phool Kumar) as Lambardar of the village.

9. In my considered view, if the Collector wants to satisfy himself regarding the personal influence of any candidate, he should make confidential enquiries and draw his own conclusions rather than proceeding in the matter by recording a vague observation that *“most of the respected persons of the village are in favour of appointing respondent No. 4 (Phool Kumar) as SC Lambardar of the village.”*

10. In the attending circumstances, the recommendation made by the lower revenue officials come handy as they are in a position to assess the suitability of a candidate and such recommendation would have some persuasive value. Although, the Collector is not bound by the recommendation made by the Revenue Authorities in favour of a candidate; however, due consideration is to be accorded to such recommendations. In

this regard, reference can be made to the observations made in the case of *Hakam Singh vs Financial Commissioner (Revenue), Punjab, 2016(4) RCR (Civil) 335* and *Atma Singh vs The Financial Commissioner, Revenue, Punjab, 2016(1) LAR 592*.

10.1 Further in *Mahavir Singh v. Khiali Ram and Others, 2009(1) RCR (Civil) 757*, Hon'ble Supreme Court held that with regard to the appointment of a *Lambardar*, age of a candidate is a relevant factor.

10.2 I am also of the view that educational qualification of a candidate is also a relevant consideration for appointment of a *Lambardar* as the same would clearly fall for consideration under the aspect of “*ability*” of a candidate, especially taking into consideration the nature of duties to be performed by a *Lambardar*.

11. Normally in *Lambardari* cases, the appointment made by the Collector of the District is not to be interfered with lightly, but in this case on going through the record, I find that the consideration(s) which have weighed with the learned Collector are not the relevant considerations.

12. Since respondent No. 4 has been appointed as *Lambardar* (SC) by the learned Collector on irrelevant considerations, the same is patently illegal and arbitrary and liable to be set aside. Further, learned Financial Commissioner while upholding Collectors order, has permitted a consideration to weigh with him, which is extraneous to the appointment of a Scheduled Caste *Lambardar*, therefore the same can also not be sustained.

13. In view of the above discussion, the impugned orders passed by learned Collector as well as Learned Financial Commissioner, appointing respondent No. 4 as *Lambardar* (SC) of Village Gudha, are set aside and the matter regarding appointment of *Lambardar* (SC) of village Gudha, Tehsil

Indri, District Karnal, is remanded to the learned Collector to decide the same afresh in accordance with law after affording due opportunity of hearing to the parties. The parties are directed to appear before the learned Collector, on 03.10.2024 or any other date as may be fixed by the Office of learned Collector, Karnal. It is further directed that the learned Collector, Karnal shall decide the afore-said matter within a period of nine months from the date of appearance of the parties before him.

14. The writ petition is accordingly disposed of in the afore-stated terms.

15. All pending application/s, if any, shall also stand closed.

September 03, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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