

2024:PHHC:091486



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

CWP-1225-2018 (O&M)
Date of decision :17.07.2024

GURVINDER SINGH

...Petitioner

Versus

DEPUTY COMMISSIONER, DISTRICT PATIALA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. R.K. Grewal, Advocate
for the petitioner.

Mr. Navneet Singh, Senior D.A.G., Punjab.

HARSH BUNGER, J. [ORAL]

1. Prayer in the present writ petition filed by petitioner (Gurvinder Singh) under Article 226/227 of the Constitution of India, is *inter-alia*, for setting aside the entire process of appointment of respondent No. 3 (Jaswinder Singh) as Chowkidar (Watchman) of Village Manakpur, Tehsil Rajpura, District Patiala, being in violation of "The Punjab Chowkidar Rules" (Annexure P-1), especially Rule 6 thereof.

1.1 A further prayer has been made by the petitioner for setting aside the order dated 08.06.2017 (Annexure P-2) passed by Sub-Divisional Magistrate, Rajpura, whereby respondent No. 3 (Jaswinder Singh) was appointed as Chowkidar (Watchman) of Village Manakpur and also setting aside order dated 24.10.2017 (Annexure P-3) passed by Deputy

Commissioner, District Patiala, whereby appeal filed by petitioner against order dated 08.06.2017 (Annexure P-2) was dismissed.

2. Briefly, a proclamation was issued for appointing a new Chowkidar of Village Manakpur, Tehsil Rajpura, District Patiala, in place of deceased Chowkidar namely Malkit Singh, who expired on 06.06.2016. It is not disputed that for appointment of Chowkidar, the Rules applicable are “The Punjab Chowkidar Rules, 1965 (here-in-after referred to as ‘the 1965 Rules’). The candidates, who had applied for the said post, were, therefore, required to be considered for appointment as ‘Chowkidar’, as per the said 1965 Rules.

2.1 It transpires that in pursuance to the proclamation, two candidates (petitioner and respondent No.3) applied for becoming Chowkidar, whereupon their antecedents were got verified from local police and the same were found in order.

3. Upon considering the claims of the candidates, learned Sub-Divisional Magistrate, Rajpura, vide its order dated 08.06.2017 (Annexure P-2) appointed respondent No. 3 (Jaswinder Singh) as Chowkidar (Watchman) of Village Manakpur.

3.1 An appeal filed by the petitioner against order dated 08.06.2017 (Annexure P-2) was dismissed by learned Deputy Commissioner, District Patiala vide its order dated 24/25.10.2017 (Annexure P-3). Accordingly, the petitioner has filed the present writ petition before this court.

4. Learned counsel for the petitioner has vehemently contended that while appointing respondent no.3 to the post of Chowkidar, the authorities below had not assigned any reason for ignoring the petitioner for

appointment to the post of Chowkidar, especially when his name was recommended by the Sarpanch, Ex-Sarpanch, Members of the Gram Panchayat and various resident of the village. It is further submitted that the petitioner is younger than respondent No. 3; he is the son of the previous Chowkidar and he has experience of work of Chowkidar. It is next submitted that petitioner is 7th standard pass and he can read and write Punjabi and Hindi. It is also stated that the petitioner bears good character and takes active part in village common works and that he always remains available in the village. Accordingly, it is prayed that the impugned orders be set aside and the petitioner be appointed as Chowkidar (Watchman) of Village Manakpur.

5. Per contra, learned counsel for the respondent No. 3 has opposed the submissions made on behalf of the petitioner by submitting that there is no illegality or perversity in the impugned orders therefore there is no scope for any interference by this Court. It is submitted that majority of the villagers are in favour of appointing respondent No. 3 as the Chowkidar (Watchman) of Village Manakpur. It is stated that respondent No. 3 does not believe in caste system and is 6th standard pass. It is further submitted that respondent No. 3 helps the government officials when they visit the village. It is next submitted that the Sub-Divisional Magistrate, Rajpura and also the Deputy Commissioner, District Patiala, have appointed respondent No. 3 as Chowkidar (Watchman) of Village Manakpur; therefore, their choice should not be lightly interfered with. Accordingly, prayer for dismissal of writ petition was made.

6. I have heard rival submissions of the counsel for the respective parties and perused the paper-book with their able assistance.

7. Here it would be apposite to refer to Rules 6, 7, 8 and 9 of the 1965 Rules, which are extracted here-in below:-

6. *The nomination to the post of village watchman or of Doffadar shall be made by the village headman, and where there are more village headmen than one, the opinion of the majority in number (unless there is some special provision to the contrary in the village administration paper) shall prevail. Where a village watchman or daffadar is to be appointed for a beat comprising more than one village, the opinion of the majority in number of the village headmen in such beat shall prevail.*

7. *The person or persons authorised to nominate to the office of village watchman, or daffadar shall, within 15 days after being required by the Deputy Commissioner, or the officer duly authorised by him in that behalf so to do, nominate a proper person to the vacant post and communicate, the nomination to the Deputy Commissioner.*

8. *The person so nominated shall, after due enquiry into his age, Character and ability, be appointed or rejected at discretion by such Deputy Commissioner, or by some officer authorised by him in that behalf.*

9. *In default of such nomination within the said 15 days, the Deputy Commissioner or the officer duly authorised by him in that behalf, shall appoint, such person as he thinks fit.*

7.1 A perusal of the aforesaid Rules would indicate that a nomination has to be made to the post of Village Watchman or Daffadar by the Village headman and where there are more village headmen, the opinion of the majority was to prevail. Such a nomination is to be made within 15 days upon being required to do so by the Deputy Commissioner

or any other officer authorised by him in that regard and thereafter an inquiry is envisaged regarding the age, character and ability of such nominated candidate before he is appointed or rejected at the discretion of the Deputy Commissioner or by some officer authorised by him in that behalf. Further in terms of Rule 9 *ibid*, in case there is a default in making such nomination within the aforesaid 15 days, then the Deputy Commissioner or the officer duly authorised by him in that behalf, shall appoint, such person as he thinks fit.

8. On a pointed query by the Court as to whose name has been nominated by the village headman, both the counsels have fairly stated that the village headman has neither nominated the petitioner nor respondent No. 3.

9. In afore-mentioned circumstances, since the village headman has neither nominated the petitioner nor respondent no. 3; in my considered view, it is Rule 9 of 1965 Rules which is attracted and the same provides that in default of nomination within 15 days, the Deputy Commissioner or the officer duly authorised by him in that behalf, shall appoint, such person as he thinks fit.

9.1 In the instant case, on the basis of the material available on the record, the appointing authority found respondent no.3 (Jaswinder Singh) to be the fit candidate for appointment as Chowkidar. The contention of the learned counsel for the petitioner that the appointing authority did not consider the aspect of the matter that the petitioner was young in age as compared to respondent no.3, is not, in my considered view, tenable, especially when the discretion exercised by the appointing authority is neither shown to be illegal or perverse. The appointing authority

(Sub-Divisional Magistrate, Rajpura) while appointing respondent no. 3 as Chowkidar (watchman), observed as under: -

“Record on file was carefully perused and after hearing the candidates have come to this conclusion that even though both candidates are of good character and educated but for watchman, an educated intelligent and suitable candidate is required. Jaswinder Singh is a suitable candidate for this post of watchman because he is well known to the work of watchman village inhabitants also want to make Jaswinder Singh S/O Prem Singh as watchman. So I appoint Jaswinder Singh S/O Prem Singh as watchman of village Manakpur on account of post falling vacant due to the death of Malkit Singh watchman of village Manakpur...”

9.2 Counsel for the petitioner has failed to point out any fact, which can stand in the way of the selected candidate i.e. respondent No. 3, to become eligible and suitable to hold the post of Chowkidar (Watchman). The order passed by appointing authority, as upheld by the appellate authority; cannot be said to be arbitrary or unreasonable and illegal.

10. In view of the above discussion, there is no scope for any interference in the impugned order(s) and finding no merit in the instant writ petition, the same is dismissed.

11. All pending applications (if any) shall also stand closed.

July 17, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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