

2024:PHHC:165727



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

CWP-23204-2016 (O&M)

Date of decision : 21.10.2024

VIJAY KUMR SON OF SH. DALIP SINGH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Akash Yadav, Advocate
for the petitioner.

Ms. Upasana Dhawan, A.A.G., Haryana.

Mr. Vijay Pal, Advocate
for respondent No.4.

HARSH BUNGER, J.

Petitioner (Vijay Kumar) has filed the present writ 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 30.09.2016 (Annexure P-8) passed by learned Financial Commissioner, Haryana; whereby, an order dated 25.08.2009 (Annexure P-3) passed by learned Collector, Bhiwani, and also the order dated 13.01.2010 (Annexure P-4) passed by learned Commissioner, Hisar Division, Hisar, appointing the petitioner as *Lambardar* of Village Isharwal, Tehsil Tosham, District Bhiwani, was set aside and respondent No.4 (Bani Singh) has been appointed as the *Lambardar*.

2. Briefly, the previous Lambardar-Sh. Shiv Lal, of Village Isharwal, expired and proceedings were initiated for filling up the vacancy. In pursuance to the proclamation for filling up the vacancy, fifteen candidates (including the petitioner and respondent No.4) applied for the said post; however, ultimately only three candidates were left in the fray i.e. the petitioner, respondent No.4 and one Shri Chand. Their antecedents were got verified from the local police, which were found in order. The learned Assistant Collector IInd Grade, Tosham, recommended the name of respondent No.4 for appointment as *Lambardar*, whereas, the learned Assistant Collector Ist Grade, Tosham, recommended the name of petitioner-Vijay Kumar for appointment as *Lambardar*.

3. Learned District Collector, Bhiwani, vide its order dated 25.09.2009 (Annexure P-3), appointed petitioner-Vijay Kumar, as the *Lambardar* of Village Isharwal. The appeal filed by the respondent No.4 against the afore-said order dated 25.09.2009 (Annexure P-3), was dismissed by the learned Commissioner, Hisar, vide its order dated 13.01.2010 (Annexure P-4).

4. Being aggrieved against the afore-said orders (Annexures P-3 and P-4), the respondent No.4 preferred a Revision Petition (ROR No. 644 of 2009-10) before the learned Financial Commissioner, Haryana, which came to be allowed vide order dated 20.12.2011 (Annexure P-5); whereby, the orders (Annexures P-3 and P-4) were set aside and respondent No.4 (Bani Singh) was appointed as the *Lambardar* by holding as under :-

“I have heard the Ld. Counsel for the petitioner as well as respondent and carefully gone through the record of the case which is available on file. On a careful

consideration, following aspect emerges while finally taking a view on the application:

i) As per the own admission of respondent, he was convicted U/s 279 IPC (Rash Driving or Riding on a public way) and 337 IPC (causing hurt by Act, endangering life or personal safety of others). The fact that he was let large on probation doesn't mitigate the implegation of conviction and the conviction, i.e. he being found guilty of the offence, stands. For a Lambardar, who is expected to be the role model for other, such conduct is not becoming. A person of such like background may be seen to be not a desirable occupant for institution like Lambardar.

ii) Now a days, merely being educated is not an achievement to be proud of, which over upon a time use to be the case. Now, to be educated while aspiring to hold some public office is as much a necessity as any other necessary qualification. To be 7th pass indeed happen to the minimum threshold qualification, but it would always be desirable to have a more/better qualified (educationally) person, in case one is available, to occupy the public office, such as that of Lambardar.

iii) To be the grandson of the deceased Lambardar is not such compelling reason anymore which should over ride all the other consideration. Now, none of the public office is hereditary, including that of Lambardar.

On the counts, I find the candidature of applicant i.e. Sh. Bani Singh to be much more acceptable to hold the historical and institutional assignment of Lambardar compared to that of Sh. Vijay Kumar.

On such a consideration, therefore, Sh. Bani Singh is ordered to be appointed as the Lambardar."

5. In the afore-mentioned circumstances, the petitioner (Vijay Kumar) had filed the present writ petition before this Court.

6. Learned counsel for the parties have submitted that petitioner-Vijay Kumar, has expired.

7. In ***Satnam Singh v. Financial Commissioner Appeals-I, Punjab, 2003(2) RCR (Civil) 730***; a Division Bench of this Court held as under:-

“Only two candidates were left in fray for the appointment to the post of Lambardar, i.e., Satnam Singh, petitioner herein, and Harmesh Lal. Concededly, Satnam Singh was made Lambardar on the dint of the order passed by learned Commissioner. Feeling aggrieved, Harmesh Lal filed revision but during the pendency thereof he died. Learned Financial Commissioner in the impugned order (Annexure P-6) dated 29.11.2001 clearly recorded that after the death of Harmesh Lal right to sue does not survive. If that be so, revision ought to have been dismissed having been rendered infructuous and the case ought not to have been remanded. Impugned order (Annexure P-6) dated 29.11.2001 passed by Financial Commissioner is, thus, set aside and the order of Commissioner against which revision has been filed before the Financial Commissioner is sustained.

2. The writ petition is disposed of accordingly.

Petition accepted...”

8. Concededly, since petitioner (Vijay Kumar) has died; his claim for the post of Lambardar does not survive any longer.

9. That apart, the learned Financial Commissioner, has specifically held that the candidature of respondent No.4-Bani Singh was much more acceptable to hold the office of Lambardar as compared to Vijay Kumar (since deceased), accordingly, appointed respondent No.4 as Lambardar. Accordingly, it is not necessary for this Court to interfere in the order passed by the learned Financial Commissioner, appointing respondent

No.4 (Bani Singh) as Lambardar of Village Isharwal, Tehsil Tosham,
District Bhiwani.

10. In view of the above, the instant petition is dismissed.
11. All pending application/s, if any, shall also stand closed.

October 21, 2024
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No