

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-31158-2018 (O&M)
Date of decision: 08.04.2024

Yashpal Singh and another
...Petitioners

VERSUS

State of Haryana and others
...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Mahender Singh Chahal, Advocate for the petitioners.

Mr. Pankaj Mulwani, DAG Haryana
for respondents No.1, 3 and 4.

Mr. Amit Sharma, Advocate
for respondents No.2 and 5.

Respondent No.6 already proceeded against *ex-parte*.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 08.11.2017 passed by respondent No.2 whereby the claim of the petitioners has been rejected and a prayer has been made that petitioner No.1 be granted award/medal as a 'Best Master Trainer' and petitioner No.2 be awarded as 'Next Best Master Trainer'.
2. Learned counsel for the petitioner vehemently contends that the Government of India started the Census Operation for completion of the Population Statistics of the Country. The exercise was to be carried out by the State Governments. Exercising its power under Sub-Section (2) of

Section 4 of the Census Act, 1948, various officers were appointed by the Governor of Haryana to supervise the Census Operation within the assigned respective Districts. The Deputy Commissioners in the State were appointed as Principal Census Officers of their respective Districts, while the Additional Deputy Commissioners were appointed as Additional Principal Census Officers. The Sub-Divisional Officers (Civil) were appointed as Sub-Divisional Census Officers and Tehsildars were appointed as Charge Officers within their respective limits of Tehsil to supervise the Census Operations and the Census Programme was to be conducted in two phases. The Directorate of Census Operation Haryana issued necessary instructions vide letter dated 20.04.2010 to the Charge Officers and the District Administration regarding supervision and checking of field operation of Census 2011. Since various levels of field staffs were required to carry out the Census Operation, National Trainers were designated to impart training to the Master Trainer Facilitators, who were to further arrange for the training of the Master Trainers. The Master Trainers were to further impart training the Enumerators. Hence, the Master Trainers were required to train a massive work force of Enumerators. Respondent No.5 was appointed as Master Trainer Facilitator while the petitioners were appointed and engaged as Master Trainers.

3. It is submitted by the learned counsel for the petitioners that the petitioners performed their duty in an excellent manner with hard work, zeal, dedication and to its perfection. Consequently, the petitioners were awarded commendation certificates, for outstanding work, by the Deputy Commissioner-cum-Principal Census Officer, Rohtak and the Tehsildar-

cum-Charge Officer, Rohtak. As per the tradition in the Census Department, the Medals/award is conferred upon the Trainers who display outstanding works. The Tehsildar-cum-Charge Officer and thereafter the Deputy Commissioner-cum-Principal Census Officer, Rohtak recommended the names of the petitioners for being conferred with an award on the basis of their own assessment, however, those recommendations were not taken into consideration by the Directorate of Census at the time of awarding census medal and certificates of honour. The medal in the 'Master Trainer Category' was given to respondent No.6-Prem Singh, whose name was not recommended by the Deputy Commissioner-cum-Principal Census Officer, Rohtak or the Tehsildar-cum-Charge Officer, Rohtak. When the petitioners came to know about the said fact, they made a representation to the Deputy Commissioner-cum-Principal Census Officer, Rohtak with a prayer that justice be delivered. The claim of the petitioners was found genuine by the Deputy Commissioner-cum-Principal Census Officer, Rohtak and the Tehsildar-cum-Charge Officer, Rohtak and an intimation was sent to the Directorate of Census Operation vide letter dated 18.09.2013 to take appropriate action in the matter. As no decision was taken on the same, the petitioners approached this Court by way of filing CWP-25755-2014, which was disposed of vide order dated 27.09.2017 calling upon the respondents that a decision be taken on the pending representation submitted by the petitioners. In compliance to the said order dated 27.09.2017, the respondents passed an order thereby rejecting the claim of the petitioners.

4. Learned counsel appearing on behalf of the petitioners has further argued that respondents have rejected the claim of the petitioners by

passing a non-speaking order and without considering that the claim of the petitioners had been recommended by the Tehsildar-cum-Charge Officer, Rohtak as well as the Deputy Commissioner-cum-Principal Census Officer, Rohtak and that there was no cogent reason for declining the said recommendation. It is also averred that respondent No.5-Amit Kumar Bhargav, SA-II, was not competent to award any benefit to any person, other than those recommended by the Charge Officer and forwarded by the Principal Census Officer. He thus submits that the impugned order dated 08.11.2017 is thus liable to be set aside.

5. Learned counsel appearing on behalf of contesting respondents No.2 and 5 submits that the claim of the petitioners is based on misappreciation of the circulars issued by the Directorate of Census under the Census Act, 1948. He contends that as per the Census Act, 1948, the Government appoints a Census Commissioner to supervise the taking of the census throughout the area in which the census is intended to be taken, and Directors of Census Operations to supervise the taking of the census within the several States. Thus, the offices of the Director Census Operations were responsible for preparing and execution of the said operations and that a team of officers is deputed by the Director, Census Operations to supervise the team work and to see that the instructions are being followed correctly. Hence, only the Directorate of Census Operations is competent to assess the working of the census team functionaries. It is contended that the work of Census can be completed successfully only if the Master Trainer are well trained and the quality of training to Enumerators/Supervisors depends on the training of the Master trainers. Respondent No.5 was not only a Master

Trainer Facilitator but he was also a representative of the Directorate Census Operations in the District and remained in the District throughout the Census Operations. It is also submitted that the Registrar General India and Census Commissioner had issued a communication dated 13.08.2012 (Annexure R-2/1) as per which the matter of conferring Awards of Census Medals and Certificates of Honours to Census functionaries is entirely within the domain of Census Organisation and that the Director, Census Operations is competent for conferring medals/awards. Since respondent No.5 was incharge of District Rohtak, he had occasion to directly supervise and assess the work undertaken by various trainers. He was competent to recommend the names for awards as he served in the said District around three years as incharge for the Census Office. He also represented the office of Census operation and was well versed with all the ongoing activities in the District and visited all the training classes and checked the work of Enumerator/Supervisors in the field while coordinating with the Principal Census Officer-cum-Deputy Commissioner for the smooth functioning of the Census in the District. He was competent to make his recommendation to the final authority for conferring medals. He submits that out of the two petitioners, the benefit of 'Next Best Master Trainer' has already been conferred upon petitioner No.2 and that no grievance survives qua him and the issue only pertains as to the conferring the award of 'Best Master Trainer' on Prem Singh Malik instead of the petitioner who is claiming and he is entitled to the 'Best Master Trainer' appreciation/award.

6. Reference is made by the learned counsel for respondents No. 2 and 5 to the letter dated 13.08.2012, the relevant extract thereof reads thus:-

“No. 9/60/2011-CD CEN)

Dated-13.08.2012

To,

All the Directors of Census Operations

Subject: Award of Census Medals and Certificates of Honour to Census functionaries for doing outstanding Census work during Census of India 2011.

Madam/Sir,

It has been a tradition in the Indian Census to recognize the exemplary work done by the Census functionaries by awarding them with Census Medals and Certificates of Honour.

2. These medals and certificates of Honour are to be awarded to different categories of Census functionaries after carefully preparing a List of officials/functionaries selected for this purpose. Some of the Directorates may have already completed this exercise in anticipation. The estimated number and type of officials/functionaries to be selected for awarding the 2011 Census Medals and Certificates of Honour among the Census functionaries for all States/Union Territories is given in the Annexure I & Annexure II.

3. Before giving final touch to the list of recipients, you have to assess the performance of all the Census Officers (right from Principal Census Officer to Enumerator) after scrutiny of the quality of work done by the enumerator as reflected in Household Schedules. To make a realistic

assessment of the work done by enumerators, it would be first necessary to collect their names chargewise from the District Magistrate/Collector's Office and then shortlist a few of them on the basis of their quality of performance. The quality of enumerator's work would depend on not only clean work but also on the correctness in the entries made in the Household Schedule. As regards other functionaries like Supervisors up to Charge Officers, it would be appropriate to go by the selection made by the In-charge of District/Municipal Corporation office. However if the DCO, during the Population Enumeration had any direct knowledge of any such officer doing outstanding work, she/he can make her/his own selection. A Census functionary from the list provided by the District office can be rejected by the DCO if she/he has direct knowledge of particularly unsatisfactory work done by the functionary.

4. The selection of Principal Census Officer in the State/UT is left to the Directors. It should be ensured that no officer/official being recommended for award of Census Medals is charged with any vigilance case/official enquiry.

Statement showing, distribution of Census medals among field officers/officials at different levels is enclosed for ready reference.

(emphasis supplied)".

7. It is argued that respondent No.5, who is the Master Trainer Facilitator, was entitled as per the applicable instructions to suggest and recommend the names for the award, having been deputed in the said District as incharge of the Census Office. It is submitted that the allegations as regards respondent No.5 interfering with the work of Tehsildar and forcing the Tehsildar to issue recommendation letter in favour of certain persons is denied and that there was no occasion or reason for the Census Office to put any pressure on the Tehsildar or the Sub-Divisional Officer(C)/Magistrate. It is further submitted that as per the information obtained, the name of Prem Singh Malik-respondent No.6 was initially recommended by the Office of the Tehsildar for being conferred the President Medal but in the final list, his name was replaced by that of petitioner No.1, without any proper approval or procedure. It is thus contended that it was not respondent No.5 who influenced the Charge Officer but the petitioner himself exerted influence on the Charge Officer-Tehsildar to delete the name of Prem Singh-respondent No.6 and to include his name instead. He thus contends that the decision has been passed strictly in accordance with the recommendations made and the circulars issued by the official respondents and after considering all the reports including the direct assessment report by the Incharge, Census Office of the District. The benefit having been conferred as per the applicable circulars/rules, the said discretion and assessment on the part of the Census Office could not be substituted for the satisfaction of any other authority.

8. Even though the said written was filed in the month of August-2019, however, no replication/rejoinder was filed to dispute or deny the

averments made therein despite lapse of nearly 05 years of the filing of the written statement.

9. A separate reply has also been filed on behalf of respondents No.1, 3 and 4, which need not be gone into in details at this stage since the issue involved pertains to the decision taken by respondent No.2 i.e. Directorate of Census Operations, Haryana.

10. I have heard the learned counsel for the respective parties and have gone through the documents appended along with the instant petition, with their able assistance.

11. The grievance revolves entirely around the rejection of the claim of the petitioners by respondent No.2 vide order dated 08.11.2017, which read thus:

“Speaking Order

Sub:- Implementation of Court orders delivered on 27.09.2017 by the Hon'ble Punjab & Haryana High Court, Chandigarh in CWP 25755 of 2014 filed by Yashpal Singh & others vs State of Haryana & others.

Shri Yashpal Singh and Shri Rajinder Sharma, both Master Trainers engaged in Census, 2011 in Rohtak District have filed the CWP 25755 of 2014 in Hon'ble Punjab & Haryana High Court, Chandigarh for not having been awarded the Census Medal for work done in District Rohtak during Census 2011 despite the recommendation made from the concerned Principal Census Officer i.e. Deputy Commissioner of Rohtak.

2. Now Hon'ble Punjab & Haryana High Court has

passed Orders on 27.09.2017, vide which it has been stated that in case Petitioners submit a representation within one month from the issuance of Orders, the same shall be considered by the Competent Authority and appropriate decision shall be taken thereon within two weeks thereafter.

3. *In light of the directions issued by the Hon'ble Punjab & Haryana High Court, the representation of the Petitioners received in this office on 26.10.2017 has been examined and considered with reference to the Government orders and available records and the same stands rejected on the following grounds:*

As per Census Act 1948, the Census Commissioner supervises the taking of Census throughout the area where Census is intended to be taken and Director of Census Operations is to supervise the same within the State and is responsible for coordinating with the State Government to implement the instructions of the Registrar General & Census Commissioner, India in the field. Director, Census Operations, Haryana along with his team of officers/officials from Directorate was required to supervise the field work and to see that the instructions are being followed correctly. As such Director, Census Operations, Haryana was competent to assess the working of the Census field functionaries in Haryana.

The Officers/Officials deputed by the Director of Census Operations are to supervise the field work and to see that the instructions are being followed in the districts they are allotted. The officer/official designated from directorate for a district is directed to remain in the district throughout the Census Operations and is also responsible to implement the Orders of the Office of Registrar General, India for smooth conduct of Census in the district. Being representative of the Directorate, he is also supposed to supervise the work of field functionaries on behalf of the Director, Census Operations. Census schedules are to be filled as per strict guidelines and as per training instruction manual and other training materials provided by Hence, the "latest Innovative techniques", Directorate of Census Operations. to claimed by the petitioners, were not used while imparting training in the State of Haryana.

As regards awarding the Census Medals to the best Census functionaries, it may be noted that the matter totally belongs to Census Organization. The Director, Census Operations is the final authority for awarding Medals and Deputy Commissioner is only a recommending authority. Hence, the names of the Census functionaries for the award of medal as recommended by Deputy Commissioners are not final.

The recommendations of the Deputy Commissioners are not necessarily acceptable to the Director, Census Operations, who is the final authority to take a decision on the matter.

In the instant case, Shri Amit Kumar Bhargav from Directorate of Census Operations was deputed as in-charge of District Rohtak. He was there in the district for around three years to supervise and coordinate the tasks related to Census. Since he was well versed with all the on-going activities and visited all the training classes and checked the work of all Enumerators/Supervisors in the field and also coordinated with Principal Census Officer for smooth conduct of Census in the Rohtak district, he could very well suggest the name of the Census functionaries for award/Modals Controlling Officer of the Directorate, being the final authority, is competent to take a decision on his recommendation and award medals accordingly. The recommendations were made by Shri Amit Kumar Bhargav strictly on the basis of performance and on field activities of the master trainers.

Further, as per RTI obtained from Office of Deputy Commissioner, the name of Shri Prem Singh, Master Trainer was initially recommended for Census Medal from Deputy Commissioner on the noting and the

recommendation was potentially justified by the charge officer but in the final list, the name of Shri Prem Singh, Master Trainer was found replaced without giving any proper justification.

It may finally be noted that medal was awarded only on the basis of merit as judged by the Directorate of Census Operations, Haryana.

4. Hence, this office finds no merits in the representation filed by the petitioners on 26.10.2017 and the same stands disposed of.

***(D. Subba Raju)
Assistant Director”.***

12. It is evident that respondents have taken a decision to confer the benefit of Master Trainer on Prem Singh Malik instead of petitioner No.1. So far as petitioner No.2 is concerned there is no subsisting grievance since he has already been conferred the award of Next Best Master Trainer. The claim of the respondents is that the award has been conferred by them within their competence and that such a power is conferred upon respondent No.5, vide letter dated 13.08.2012, to make a recommendation and that the District Magistrate/Collector's recommendation is not final and binding and that a final decision is required to be taken by the Director, Census Operations, Haryana in this regard. It has also remained uncontroverted, from the stand taken by the respondents, that initially name of Prem Singh Malik was recommended by the Tehsildar-cum-Charge Officer and was forwarded to the Deputy Commissioner-cum-Principal Census Officer, however, on account of unexplained intervening circumstances, his name was deleted and

instead name of petitioner No.1 was inducted. No reasons have been given by the petitioner or the Deputy Commissioner as to what was the compelling circumstance under which the name of Prem Singh Malik was removed and name of the petitioner was supplanted. Further, the recommendation in favour of Prem Singh Malik was made by the Incharge Official, who had a valid authority of supervision and assessment of the work undertaken by the petitioner as well as Prem Singh, as per instructions/circulars issued by respondent No.2 vide letter dated 13.08.2012. The said recommendation by the Officer Incharge, concerned who was directly supervising the affairs for a period of nearly 03 years during the Census Operations, cannot be said to be misconceived or based on misplaced satisfaction considering especially the fact that name of the beneficiary of the award was initially in the name of the recommendees by the Charge Officer as well and that the said name got deleted without any cogent reason and circumstance or satisfactory explanation.

13. Insofar as the contention that name of Prem Singh Malik was got incorporated at the behest of and under pressure of respondent No.5- Amit Kumar Bhargav, SA-II, is concerned, the said argument fails to convince this Court. It is incomprehensible that the Tehsildar-cum-Charge Officer would be under any pressure of respondent No.5, who is an officer belonging to a different department. Besides, a separate reply had been filed on behalf of the respondent-State and the allegation of pressure is not admitted in the said reply. Once the Charge Officer as well as the Principal Census Officer have filed their replies and they have denied exertion of any pressure or influence, which such specific denial is not controverted by the

petitioner by filing a rejoinder or pleading any evidence, the submission of the petitioner that the official respondents i.e. the Charge Officers and the Principal Census Officers are working under the pressure of respondent No.5 cannot be accepted.

14. The High Court does not sit in review over the decision taken by authorities. Once the exercise of discretion and conferring of benefit of award has been carried out as per the procedure prescribed under the Statutes and by seeking a substantive report, the satisfaction of the concerned authority cannot be substituted or supplanted by the High Court in exercise of powers of judicial review. Unless a decision of the competent authority suffers from an illegality, procedural impropriety, arbitrariness or manifest discrimination, such decision would not be ordinarily interfered with. The respondent authorities have directly supervised the work at primary level and being witness, their assessment could not be out-rightly disbelieved merely because another claim is also being filed.

15. I do not find that there is any cogent material available on record on the basis whereof this Court may hold that the order passed by respondent No.2-Director Census Operation, Haryana, is fallible and suffers from material illegality, irregularities, perversity, impropriety, arbitrariness or discrimination.

16. **The present petition is accordingly dismissed.**

(VINOD S. BHARDWAJ)
JUDGE

08.04.2024
Mangal Singh

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