



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

(1)

CWP-27615-2023 (O&M)
Date of decision :11.11.2024

SHAMSHER SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER, HARYANA AND OTHERS

...Respondents

(2)

CWP-19991-2023 (O&M)
Date of decision :11.11.2024

HARI OM

...Petitioner

Versus

FINANCIAL COMMISSIONER, HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sushil Sheoran, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, A.A.G., Haryana.

Mr. Mani Ram Verma, Advocate
for respondent No.4.

HARSH BUNGER, J. [ORAL]

1. This order shall dispose of **CWP No.27615 of 2023** titled as

Shamsher Singh vs Financial Commissioner, Haryana and others as well

as **CWP No.19991 of 2023** titled as ***Hari Om vs Financial Commissioner, Haryana and others***, as both the cases involve common questions of law and facts.

1.1 However, for the sake of convenience, the facts are being derived from **CWP No.27615 of 2023** titled as ***Shamsher Singh vs Financial Commissioner, Haryana and others***.

1.2 Petitioner (Shamsher Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking setting aside of impugned order dated 05.07.2023 (Annexure P-3) passed by learned Financial Commissioner, Haryana; whereby, the matter concerning appointment of Lambardar (Backward Class) of Village Balkara, Tehsil and District Charkhi Dadri; was remanded to the learned Collector, Charkhi Dadri, for fresh decision.

1.3 A prayer has also been made to restore the order dated 27.11.2019 passed by learned Collector, Charkhi Dadri, whereby the petitioner was appointed as *Lambardar* of village Balkara, District Charkhi Dadri.

2. Briefly, upon demise of Sh. Hari Ram, previous *Lambardar* (Backward Class) of Village Balkara, Tehsil and District Charkhi Dadri, proceedings were initiated for filling up the vacancy. In pursuance to the proclamation for filling up the vacancy, four applications (including the application submitted by the petitioner and respondent No.4-Hari Om) were received.

2.1 Learned Collector, Charkhi Dadri, noticed the following merits

of the candidates :-

<i>S. No.</i>	<i>Particulars</i>	<i>Petitioner (Shamsher)</i>	<i>Resp. No.4 (Hari Om)</i>
<i>1</i>	<i>Age</i>	<i>36 years</i>	<i>34 years</i>
<i>2</i>	<i>Educational qualification</i>	<i>12th Class</i>	<i>B.A. pass Diploma in ITI</i>
<i>3</i>	<i>Land holding/s</i>	<i>9 Kanal-13 Marlas</i>	<i>1 Kanal</i>
<i>4</i>	<i>Occupation</i>	<i>Agriculturist</i>	<i>Working as Computer Operator</i>
<i>5</i>	<i>Recommended by</i>	<i>Tehsildar</i>	<i>SDO (Civil)</i>
<i>6</i>	<i>Other remarks</i>	<i>Remained Sarbarah Lambardar Member of Red Cross Society Invested in Small Savings Schemes</i>	<i>Donations to Gaushala Life member of Red Cross Society</i>

2.2 Taking note of the afore-said comparison between the candidates, the learned Collector non-suited respondent No.4-Hari Om, primarily on the ground that he was working as Computer Operator in the Mini Secretariat on Collector rate; therefore, he is not easily available in the village for the works of the villagers. Accordingly, the learned Collector, found the present petitioner as the most suitable candidate and appointed him as the *Lambardar* (BC) of village Balkara, vide order dated 27.11.2019 (Annexure P-1).

2.3 In an appeal filed by respondent No.4; the Collector's order dated 27.11.2019 (Annexure P-1) was upheld by the learned Divisional Commissioner, Rohtak vide order dated 09.02.2021 (Annexure P-2).

2.4 Being dissatisfied with the above-referred orders (Annexures P-1 and P-2), respondent No.4 preferred a Revision Petition (***ROR No.128 of 2020-21***) before the learned Financial Commissioner, which came to be disposed of vide order dated 05.07.2023 (Annexure P-3); whereby, the matter has been remanded to the learned Collector, to re-decide as to who, between the two candidates, is the better choice for the

post, giving primacy to the factors listed in Rule 19-B of the Haryana Land Revenue Rules.

3. In the afore-mentioned circumstances, petitioner-Shamsher Singh has filed **CWP-27615-2023** and respondent No.4-Hari Om has preferred **CWP-19991-2023** before this Court.

4. Heard.

5. The learned Collector, has appointed Shamsher Singh (petitioner in **CWP-27615-2023**) as *Lambardar* (BC) of Village Balkara, by referring to various merits of Shamsher Singh, which included reference to hereditary claim as well as his more land holdings. There is no dispute that the present Lambardari relates to Backward Class, for which, holding more land would be an irrelevant consideration, in terms of Rule 19-B of the Rule *ibid* and further the hereditary claim having been held to be *ultra-vires* to Article 14 of the Constitution of India; however, there is no denial by learned counsel for respondent No.4 that the primary ground for non-suiting respondent No.4 from the post of Lambardar was on account of his service as a Computer Operator at Mini Secretariat; therefore, he would not be available to the villagers for their works during the day. It is well established that a *Lambardar* is called upon by the Revenue, Police and Administrative Officers, to assist in various matters like disputes regarding possession of land, demarcation of land, identification of persons, attending to revenue and police officers when they visit the village for inspection of crops or for other official matters. A Lambardar is called upon by inhabitants of village to attest documents, identify them when they register documents etc.

5.1 Keeping in view the duties to be performed by a *Lambardar*,

it cannot be argued that his office is merely ornamental or the duties of a *Lambardar* are limited in nature.

5.2 It is also not in dispute that where a person is in service, whether government or private, his service may not by itself be a dis-qualification, but his availability in the village would be a relevant factor to be considered by the Collector. In this regard, reference can be made to a Division Bench judgment of this Court in *Neeraj Kumar versus State of Haryana and others, 2013(4) RCR (Civil) 207*.

5.3 In the present case, concededly, respondent No.4-Hari Om is working as a Computer Operator with the District Administration on the basis of outsourcing under the “*Haryana Kaushal Rozgar Nigam Limited*.” There is no manner of doubt that during the office hours, the respondent No.4 would be engaged in his duties and would not be readily available at the time of need of the villagers, especially keeping in view the various duties to be performed by a *Lambardar*. Therefore, availability of respondent No.4 would always be in doubt, accordingly, the learned Collector had rightly non-suited respondent No.4-Hari Om from the post of *Lambardar*.

6. That apart, in the case of *Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab, 2016(1) RCR (Civil) 273*; it was held by the Division Bench of this Court that choice of the District Collector cannot be lightly set aside, even if two views are possible, unless there is any patent illegality or perversity therein. It is also well established that the learned Collector is the main authority for appointment of the *Lambardar*. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray but also personally interacts with them. Thus, the

subjective satisfaction of the Collector, could not have been ignored in a cavalier manner by the learned Financial Commissioner.

7. Considering the totality of circumstances, I am of the considered view that petitioner-Shamsher Singh was rightly appointed by learned Collector, Charkhi Dadri, as *Lambardar* (BC) of Village Balkara, which appointment was upheld by the learned Commissioner, Rohtak; however, the learned Financial Commissioner, Haryana had wrongly remanded the matter to the learned Collector, vide impugned order dated 05.07.2023 (Annexure P-3), which is totally un-justified and un-warranted. Resultantly, the impugned order dated 05.07.2023 (Annexure P-3) passed by the learned Financial Commissioner, Haryana, is set aside.

8. In view of the above, the writ petition bearing **CWP-27615-2023** titled as **Shamsher Singh vs Financial Commissioner, Haryana and others,** is allowed and order dated 27.11.2019 (Annexure P-1) passed by learned Collector, Charkhi Dadri, appointing the petitioner as *Lambardar* (BC) of Village Balkara, Tehsil and District Charkhi Dadri, is upheld.

8.1 Consequently, the writ petition bearing **CWP-19991-2023** titled as **Hari Om vs Financial Commissioner, Haryana and others,** fails and the same is, accordingly, dismissed.

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

10. A photocopy of this order be placed on the file of another connected case.

November 11, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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