

LPA-1635-2023

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2024:PHHC:039302-DB

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

LPA-1635-2023 (O&M)

Date of decision : 25.01.2024

Krishan Kumar

...Appellant

Vs.

**State of Haryana and
others**

...Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Jitender K.Sehrawat, Advocate for the appellant.

DEEPAK MANCHANDA, J.

1. By way of present intra-court appeal, the appellant has assailed the judgment dated 12.10.2023 passed in CWP-23135-2023, vide which the appellant sought quashing of the impugned orders dated 26.09.2023 (Annexure P-9) passed by respondent No.2-Financial Commissioner, Haryana, Chandigarh and order dated 20.02.2018 (Annexure P-4) passed by respondent No.3-Commissioner, Hisar, whereby candidature of the appellant had been rejected.

2. Vide judgment dated 12.10.2023, learned Single Judge dismissed the writ petition on the ground that the orders sought to be challenged by filing the writ petition do not suffer from any infirmity and respondent No.4 was directed to decide the case afresh expeditiously in accordance with law preferably within a period of three months from the date of receipt of certified copy of this order. Aggrieved by the same, present intra-court appeal has been

filed by the appellant.

3. The facts emanated from the pleadings of the writ petition are that on the death of earlier Namberdar, namely, Satpal, post of Namberdar in village Narwana, District Jind fell vacant. Hence, process for fresh appointment of new Namberdar was initiated. The present appellant along with respondent Nos.5 and 6 applied for the same, where verification was done and inter se merits were evaluated. Thereafter, the appellant was appointed as Namberdar vide order dated 07.08.2017. Aggrieved by the same, respondent No.5 i.e. Kuldeep Singh challenged the same by way of filing an appeal before the respondent No.3, who remanded back the matter to Collector for deciding afresh vide order dated 20.02.2018. Dissatisfied with the same, the appellant filed the revision petition under Section 16 of The Haryana Land Revenue Act, 1887 before the respondent No.2, which was dismissed with direction to initiate the fresh process of appointment of Namberdar vide his order dated 28.03.2023. Aggrieved against the same, the appellant filed CWP-9792-2023, which was partly allowed vide order dated 31.05.2023 by setting aside the order dated 28.03.2023 passed by respondent No.2 and a direction was issued to decide ROR No.371 of 2017-18 afresh in accordance with law. However, order dated 28.03.2023 was again upheld by respondent No.2 and the claim of the appellant was dismissed vide order dated 26.09.2023 without appreciating the evidence on record. Consequently, the appellant filed the writ petition No.23135-2023, which was dismissed vide order dated 12.10.2023 against which the present intra-court appeal has been preferred.

4. Learned counsel for the appellant contends that learned Single Judge did not consider the aspect that the appellant is more qualified and he

was appointed by the respondent No.4, who is first choice to appoint the Namberdar and same should not have been interfered by the subsequent authorities. Learned counsel further contends that there was no complaint against the working of the appellant and without considering the educational qualification of respondent No.5, who is only 7th pass, respondent No.3-Commissioner accepted his appeal without application of mind and failed to appreciate the evidence and wrongly rejected the claim of the appellant, even though he was a more meritorious candidate for the post of Namberdar and even as per Haryana Gazette Notification 23.07.2008, the qualification for the post of Namberdar should be 8th standard, but the respondent No.5 is only 7th class pass and does not fill the condition mentioned in the said notification.

5. We have heard learned counsel for the appellant and have perused the material available on record.

6. The learned Single Judge dismissed the writ petition, which has been assailed by way of present intra-court appeal on the ground that the orders dated 20.02.2018 and 26.09.2023 (Annexures P-4 and P-9, respectively) do not suffer from any illegality. A perusal of the order dated 20.02.2018 reveals that after evaluating the qualification of respondent No.5, who contributed to fixed deposit, Pardhanmantri Rahat Kosh, family planning and is 10th class pass. As per Rule 15 (H) of Haryana Land Revenue Rules, middle pass is the qualification for the appointment of Namberdar and when 10th class candidate was available, then there was no occasion to select the middle pass candidate. The appellant is having 3 kanal of land whereas respondent No.5 is the owner of 3 acre 3 kanal land, which shows that he is better in land holding as well as in education. Moreover, respondent No.3 in its order dated 20.02.2018

specifically observed that there are serious allegations of manipulation in motivation certificate by appellant, who provided false and fake certificate. It was also observed that though the some allegations were against the respondent No.5 also, therefore, keeping in view the same, the matter was remanded back to respondent No.4-District Collector, Jind, Haryana for deciding the matter after giving reasonable opportunities of hearing to appellant as well as to respondent No.5.

7. Further, as per the order dated 26.09.2023 passed by the respondent No.2-Financial Commissioner, Haryana, Chandigarh under Section 16 of Haryana Land Revenue Act, 1887 where it is mentioned that vide order dated 20.02.2018, the matter was remanded back to the Collector for fact finding inquiry on the allegations by the parties against each other. In the order dated 26.09.2023, it is mentioned that the appellant had submitted four unsigned family complaint motivation cases of Tubectomy/Vasectomy in support of his claim to the post, which were disputed by the respondents as those unsigned certificates show entries in the sterilization register bearing nos.462/33, 461/32, 460/31, 464/35 on 22.10.2016 at Civil Hospital, Narwana. It is also mentioned that one FIR No.6 of 2021 was also registered at Police Station Narwana City for offences committed under Sections 120-B, 420, 467, 468 and 471 of IPC, where appellant was found involved for forging a false power of attorney No.27 dated 13.10.2020, and sold one commercial plot of sixe 604 sq. yards situated in M.C.Narwana vide sale deed No.5068 dated 20.11.2020 belonging to the complainant, Neelam Gupta r/o New Friends Colony, Block-C, New Delhi. Though counsel for the appellant submitted that the cancellation report had been prepared, which was pending adjudication

before the concerned Court, but the said claim, however, was not verified. Resultantly, the respondent No.2 disposed of the said revision petition vide order dated 26.09.2023 and upheld the order dated 20.02.2018 passed by respondent No.3, vide which District Collector-respondent No.4 was directed to conduct a fact finding inquiry on each of the allegations levelled by the appellant as well as respondent No.5.

8. In the light of the above, we are of the view that judgment passed by learned Single Judge has rightly been passed, which does not suffer from any infirmity, hence no interference is warranted.
9. Accordingly, the appeal is dismissed.
10. Since the main case has been dismissed, the pending application(s) if any have been rendered infructuous.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

25.01.2024
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No