

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28980-2024 (O/M)

Date of decision : 05.12.2024

Chand Ram

..... Petitioner(s)

Versus

Financial Commissioner (Revenue), Haryana and others

..... Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Omkar Chauhan, Advocate
for the petitioner(s).

Ms. Upasana Dhawan, AAG Haryana.

-. -

-. -

HARSH BUNGER, J. (ORAL)

1. Petitioner (Chand Ram) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 16.10.2018 (Annexure P-1), passed by learned Deputy Commissioner-cum-Collector, Sonapat, whereby the petitioner was removed from the post of Lambardar of village Raipur, Tehsil and District Sonipat. A further prayer has been made for setting aside the order dated 17.05.2019 (Annexure P-3), passed by learned Commissioner, Rohtak Division, Rohtak and order dated 07.06.2024 (Annexure P-5), passed by learned Financial Commissioner, Haryana; whereby an appeal as well as revision filed by the petitioner against the Collector's order dated 16.10.2018 (Annexure P-1) were dismissed, respectively.

2. Briefly, the petitioner was working as Lambardar (Backward Class) of village Raipur. During his tenure, a case FIR No. 34 dated 26.01.2009 was registered at Police Station Sadar, Sonipat under Sections 148, 149, 323, 325 IPC, wherein the petitioner was also an accused. It appears that the petitioner was convicted in the aforesaid case FIR No. 34, vide judgment dated 09.05.2013, passed by the Court of learned Judicial Magistrate 1st Class, Sonipat and was sentenced to undergo imprisonment for 3 years alongwith Rs. 1,000/- as fine.

2.1 It transpires that some of the residents of village Raipur submitted a complaint before the learned Collector, Sonipat, highlighting that the petitioner was convicted in the aforesaid case FIR No. 34 and that he was a dishonest and a quarrelsome person, therefore, he does not deserve to remain on the post of Lambardar.

2.2 The aforesaid complaint was got inquired into by the learned Collector, Sonipat and thereafter, a show cause notice was also issued to the petitioner.

2.3 It appears that the aforesaid conviction of the petitioner was maintained by the learned first appellate Court, however, on a criminal revision (CRR-353-2017) filed by the petitioner alongwith others, the conviction of the petitioner under Section 148 IPC was set aside, however, his conviction under Sections 323, 325 read with Sections 149 and 506 IPC was maintained, vide judgment dated 20.03.2017 (Annexure P-8), passed by this Court. However, as regards the sentence, this Court observed as under :-

“ Perusal of the custody certificate placed on record shows that all the petitioners have already undergone almost one month 25/26 days of imprisonment.

Taking note of the above facts, I am of the considered opinion that the interest of justice will be fully met if the petitioners instead of being directed to undergo imprisonment as awarded by the trial Court, are ordered to be released on probation of good conduct for a period of one year on their furnishing probation bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Sonapat. During this period, they will keep peace and be of good behaviour and be called upon to receive sentence in case of violation of any condition of probation bonds. However, in addition to it, petitioners are also directed to pay Rs. 10,000/- each as costs of litigation in addition to amount of fine already deposited, which shall also be considered as costs of litigation. Out of costs of litigation, injured Rajbir, Ram Kumar and Karambir shall be paid Rs. 20,000/- each as compensation.

With modification of judgments of Courts below on above terms, this appeal is disposed of.”

2.4 Taking note of the aforementioned facts, especially the fact that the conviction of the petitioner has been maintained upto this Court, the learned Collector, vide order dated 16.10.2018 (Annexure P-1), directed removal of the petitioner from the post of Lambardar.

2.5 An appeal filed by the petitioner against the learned Collector's order dated 16.10.2018 was dismissed by the learned Divisional Commissioner, vide order dated 17.05.2019 (Annexure P-3). A further revision (ROR-102-2019) filed by the petitioner was also dismissed by learned Financial Commissioner, Haryana, vide order dated 07.06.2024 (Annexure P-5) by observing as under :-

“5. I have heard the counsels for the parties and have gone through the record available on file. The petitioner was a convict in case FIR No. 34 dated 26.01.2009 under Sections 323, 325 read with Section 149 and 506 IPC. The conviction has been upheld upto Hon'ble High Court in CR No. 353 of 2017, decided vide order dated 20.03.2017 of Hon'ble High Court. The matter was of a fight between the parties, wherein the petitioner and other co-accused caused grievous hurt to the complainant in criminal case. The conduct of the Lambardar is pivotal and he is a connect between the administration and the villagers. Any criminal proceedings, which has led to conviction, made him unfit to be entrusted any longer with the duties of Lambardar. Simultaneously, in the inquiry report, conducted after the notice, the charge was found to be proved against him. SDO (C) has observed that it was a case of dismissal, a finding based on the conduct of the Lambardar. The petitioner has relied upon the case law of Hon'ble High Court, however, the perusal of the same would reflect that it was a matter involving the Government employee, whose services were governed under the particular set of rules and the termination in that case has been passed without show cause notice. However, in present case, the conduct is of a representative of the villagers and on conviction, the petitioner has made himself unfit for further service. Therefore, there is no merit in the petition and impugned orders have been passed as per law.

6. In view of the above, the revision petition is hereby dismissed in the interest of justice.”

3. In the aforementioned circumstances, the petitioner(s) has/have filed the instant civil writ petition for the relief(s), as noticed above.

4. I have heard learned counsel for the petitioner and have also perused the paperbook with his able assistance.

5. In the present case, the petitioner has been removed from the post of Lambardar of village Raipur as he was convicted in case FIR No. 34 and his conviction under Sections 149, 323, 325, 506 IPC was maintained upto this Court.

5.1 Apparently, the petitioner has been ordered to be removed by learned Collector, Sonipat, while exercising his powers under Rule 16 of the Haryana Land Revenue Rules, which deals with 'Dismissal of Headmen', and the same reads as follows :

"(i) A headman shall be dismissed when -

(a) he is sentenced to imprisonment for one year or upwards or to any heavier sentence; or

(b) in an estate owned altogether or chiefly of Government he ceases to possess the interest which led to his appointment;

(c) in any other estate he ceases to be a landowner in the estate or sub-division of the estate in respect of which he holds office;

(d) he has mortgaged his holding and has delivered possession to the mortgagee; but in special cases the Collector may with the Commissioner's sanction retain him in his office under such circumstances; if he can furnish adequate security for the payment of the revenue he has to collect and for the due discharge of his duties; or

(e) his holding has been transferred under Section 71 of the Land Revenue Act or the assessment thereof has been annulled under Section 73 of the same Act.

(f) he is convicted in a case involving moral turpitude

(ii) A headman may be dismissed when -

- (a) criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of his office; or*
- (b) he is seriously embarrassed by debt, or if his unencumbered holding is so small as to disqualify him in the Collector's opinion for the responsibility attached to the office of headman; or*
- (c) owing to age or physical or mental incapacity, or absence from the estate, he is unable to discharge the duties of his office; or*
- (d) There is reason to believe that he has taken part in, or concealed illicit distillation, or the smuggling of contraband articles such as narcotics, gold, jewellery, foreign exchange, (in Punjab only) cocaine, opium or charas;*
- (e) he takes part in any unconstitutional agitation against the Government or failed to give his active support to the Government in the maintenance of law and order;*
- (f) he neglects to discharge his duties or is otherwise shown to be incompetent;*
- (g) the estate or sub-division thereof, in respect of which he holds office, or his own holding is attached either for an arrear of land revenue or by order of any court."*

5.2 A perusal of above extracted Rule 16 of Haryana Land Revenue Rules would manifest that in sub-rule (i) of Rule 16, six clauses have been provided in which the circumstances have been prescribed under which a headman shall incur disqualification. In such cases, there is no scope for discretion and the person has to be necessarily declared disqualified if he is found to be covered by any of these clauses. On the other hand, in sub-rule (ii) of Rule 16, a discretion has been conferred on the Collector to consider the desirability of dismissing a person if he suffers from any of the disabilities or dis-qualifications prescribed in the

seven clauses of this sub-rule. This sub-rule provides that headman can be disqualified if any of the circumstances mentioned in the clauses under this sub-rule come to occur. However, it is a matter left purely at the discretion of the Collector and he is to decide in the circumstances of each case whether to disqualify a Lambardar or to take some other action against him if he is found to be involved in such activities.

5.3 Evidently, the petitioner was convicted in case FIR No. 34, vide judgment dated 09.05.2013, passed by the Court of learned Judicial Magistrate 1st Class, Sonipat and was sentenced to undergo imprisonment for 3 years alongwith Rs. 1,000/- as fine. Concededly, petitioner's conviction under Sections 323, 325 read with Sections 149 and 506 IPC was maintained by this Court vide its judgment dated 20.03.2017 (Annexure P-8), however, after noticing that the petitioner had undergone almost one month 25/26 days of imprisonment, this Court ordered release of petitioner on probation of good conduct for a period of one year on their furnishing probation bonds. Apparently, the petitioner was unavailable to the village community for a period of almost two months when he was in custody.

5.4 This Court in ***Dharam Pal Versus Financial Commissioner, Haryana, 2011(3) RCR (Civil) 406***; held as under:-

“10. Rule 16(ii) provides that a Headman may be dismissed when criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of his office.

11. A Lambardar is required to maintain the confidence and respect of the villagers, in view of nature of his duties.

12. The petitioner was involved in a crime of serious nature under Section 302/34 Indian Penal Code and was taken in custody, and convicted after trial. In such circumstances clearly, case of the petitioner would fall under Rule 16(ii)(a).

13. The Division Bench of this Court considered the issue in **2005(1) RCR (Civil) 658 : 2005(2) PLR 306, Jog Dhian v. Financial Commissioner, Haryana & others**. Following is the relevant portion from Para 13 of the judgment :-

"..... As mentioned above, it is admitted position, so specifically averred in the writ petition, that the petitioner was involved in a murder case, even though it is stated that he was acquitted, and which order was upheld by the High Court. It may be true that once an accused is acquitted on a criminal charge framed against him, even though by giving benefit of doubt, he is presumed to be innocent but at the same time, such a person cannot command respect from the public as, surely, the people cannot have much confidence and rely upon a person, who, even though, might have been acquitted but who has been tried for murder and remained in custody, either in judicial or police...."

14. The duties of a headman have been provided under Rule 20 of the Rules. Rule 20 when extracted reads as under :-

"20. Duties of headman.- In addition to the duties imposed upon headman by law for any purpose, a headman shall

(i) collect by due date all land revenue and all sums, recoverable as land revenue from the estate, or subdivision of an estate in which he holds office, and pay the same personally or by revenue money order or by remittance of currency notes through the post [or at places where treasury business is conducted by the

{State Bank of India or any Scheduled Bank as notified by the State Government from time to time}, by cheque on a local Bank] at the place and time appointed in that behalf to the Revenue Officer or assignee empowered by Government to receive it;

(ii) collect the rents and other income of the common land, and the account for them to the persons entitled thereto;

(iii) acknowledge every payment received by him in the books of the landowners and tenants;

(iv) defray joint expenses of the estate and render accounts thereof as may be duly required of him;

[(v) report to the Tehsildar the death or any assignee of land revenue or Government pensioner residing in the estate, or the marriage or re-marriage of a female drawing a family pension and residing in the estate, or the absence of any such person for more than a year];

[(vi) report to the Tehsildar and Collector all encroachments on and injury to the roads, public streets and Government, Nazul and Panchayat land;]

(vii) report any injury to Government buildings made over to his charge;

(viii) carry out, to the best of his ability, any orders that he may receive from the Collector requiring him to furnish information or to assist in providing on payment supplies or means of transport for troops or for officers of Government on duty;

(ix) assist in such manner as the Collector may from time to time direct at all crop inspections, recording of mutations, surveys, preparation of records of right, or other revenue business carried on within the limits of the estate;

(x) attend the summons of all authorities having jurisdiction in the estate, assist all officers of the Government in the execution of their public duties, supply, to the best of his ability any local information which those officers may require, and generally act for the landowners, tenants and residents of the estate or sub-division of the estate in which he holds office in their relations with Government;

(xi) report to the Patwari any outbreak of disease among animals [or human beings];

(xii) report to the Patwari the deaths of any right holders in their estates;

(xiii) report any breach or cut in a Government irrigation canal or channel to the nearest canal officer, or canal Patwari;

(xiv) under the general or special directions of the Collector, assist by the use of his personal influence and otherwise all officers of Government and other persons, duly authorised by the Collector, in the collection and enrolment of recruits for military service whether combatant or non-combatant;

(xv) render all possible assistance to the village postman, while passing the night in the village, in safeguarding the cash and other valuables that he carried."

15. Considering the facts and circumstances of the case, in the context of provisions in Rules and the case law, I am of the considered opinion that the order passed by the Financial Commissioner does not call for any interference. A person such as petitioner who was involved in a case under Section [302](#) Indian Penal Code cannot command any respect from public as, surely, the public cannot have confidence on the petitioner and rely on him.

16. Nature of duties as given out in Rule 20 extracted above require active association of the Lambardar with the residents of the area. The nature of duties requires that Lambardar knows the residents in the estate for carrying out his jobs. Without commanding respect and regard of the residents, the duties cannot be carried out. Surely, a person who has been tried for an offence as serious as under Section [302](#) I.P.C., cannot serve the purpose of the post held by him as he would be looked upon with suspicion. In such circumstances, I find that the order passed by the Financial Commissioner, dismissing the petitioner, was not required to be reviewed, even though the petitioner has been acquitted, considering mandate of rule particularly under Rule 16(ii)(a) of the Rules... ”

5.5 Considering the aforementioned facts and circumstances, I am of the considered opinion that a person such as petitioner, who stands convicted under Sections 323, 325 read with Section 149 IPC and Section 506 IPC; cannot command any respect from public as, surely, the public cannot have confidence on the petitioner and he would be looked upon with suspicion. Without commanding respect and regard of the residents, the duties of Lambardar cannot be carried out by the petitioner, consequently, he cannot serve the purpose of the post held by him. Therefore, order dated 16.10.2018 (Annexure P-1), passed by the learned Collector, removing the petitioner from the post of Lambardar, does not call for any interference by this Court, moreso, when the Collector's order has been further upheld by learned Divisional Commissioner as well as learned Financial Commissioner.

6. In this view of the matter, I do not find any merit in this civil writ petition and the same is accordingly dismissed.

7. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

05.12.2024
sjks

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