

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 1648/2019 CM(3032/2019)

ASHOK SINGH

...Petitioner/Appellant(s)

Through: Mr. Mohammad Ayoub Bhat, Advocate with
Ms. Mehjabeen, Advocate.

Vs.

STATE OF J AND K AND ORS.

...Respondent(s)

Through: Mr. Rais ud din Ganie, GA.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER (ORAL)

18.03.2025

1. The petitioner in the instant petition filed under Article 226 of the Constitution has challenged order No.71-75/WBN/7 dated 16.02.2019 (for short 'the impugned order') in terms whereof respondent 6 herein has been appointed as Lumberdar of village Khasipora, Tehsil Tral, on temporary basis in place of the petitioner herein having been engaged as Lumberdar vide order dated 26.06.2018.
2. The impugned order has been challenged on the premise that in terms of the impugned order the temporary appointment of the petitioner came to be kept in abeyance by the Tehsildar under the direction of the Additional Deputy Commissioner, dated 30.07.2018 and in place of the petitioner herein, respondent 6 herein came to be appointed in violation of the provisions of the Act of Jammu and Kashmir Lambardari Act, 1972 and Rules framed thereunder governing, regulating, appointment and disengagement of a Lumberdar.
3. **Objections** to the petition has been filed by respondents 1 to 5 wherein it is being inter-alia stated that the vacancy of Lumberdar of village

Khasipora was vacant due to the death of then Lumberdar Gh. Ahmad Malik on 19.08.2017 whereupon applications were invited for engagement of new Lumberdar through public notice and upon receipt of applications of petitioner herein came to be appointed though on temporary basis subject to the election or confirmation of the Deputy Commissioner and thereafter the same came to be forwarded to the office of the Deputy Commissioner on 26.06.2018, however, in the meantime, the Auqaf Committee of the village approached the Additional Deputy Commissioner and objected to the appointment of the petitioner as Lumberdar, whereupon taking cognizance of the said complaint the engagement of the petitioner as Lumberdar was kept in abeyance and the respondent 6 herein was appointed in place of the petitioner.

Heard counsel for the parties and perused the record.

4. Perusal of the record produced by counsel for the respondents authenticates the position that the petitioner came to be appointed as Lumberdar after the respondents invited the application for filling up of said post of Lumberdar. Record also reveals that engagement of the petitioner herein came to be kept in abeyance on the basis of a complaint filed by Auqaf Committee, Peer Mohalla Nehar Khasipora Tral and consequently the petitioner's engagement order came to be kept in abeyance and respondent 6 herein came to be engaged in his place.
5. In view of above, it is manifest that the official respondents have acted arbitrary and mechanically in the matter as on one hand the regular appointment of the petitioner as Lumberdar has been kept in abeyance at the instance of the complaint of Auqaf Committee inasmuch as without issuing a notice to the petitioner herein or affording him an opportunity

of hearing and on the other hand the respondent 6 herein has been appointed as a Lumberdar in place of the petitioner without following the provisions of Lumberdar Act, 1972 and Rules framed thereunder.

6. Having regard to the aforesaid position obtaining in the matter, the instant petition succeeds, as a consequence whereof the impugned order is not sustainable in law and is accordingly **quashed**.
7. As a consequence of above, the official respondents' are directed to allow the petitioner to work as Lumberdar in village Khasipora Tral and replace him only in accordance with the provisions of the Act of 1972 and Rules framed thereunder.
8. Record produced by counsel for the respondents is returned back in the open court.
9. Disposed of.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

18.03.2025

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