

211

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

**CWP-17298-2021
Date of Decision: 07.01.2025**

Jai Parkash

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. V.P. Sangwan, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Sharad Chaudhary, Advocate
for respondent No.4.

HARSH BUNGER J. (ORAL)

Petitioner (Jai Parkash) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 22.11.2016 (Annexure P-5) passed by the learned Divisional Commissioner, Hisar and order dated 06.04.2021 (Annexure P-7) passed by the learned Financial Commissioner (Revenue), Haryana.

2. Briefly, upon demise of Sh. Sada Ram, previous Lambardar (General Category) of Village Changrod, Tehsil Charkhi Dadri, District Bhiwani; proceedings for filling up the said vacancy were initiated, whereupon petitioner (Jai Parkash), respondent No.4 (Devender) and respondent No.5 (Raj Pal) also applied for the said vacancy.

2.1 It appears that the Assistant Collector, IInd Grade, Charkhi

Dadri as well as the Assistant Collector, Ist Grade, Charkhi Dadri recommended the name of petitioner (Jai Parkash) for appointment to the post of Lambardar, and the matter was forwarded to the learned Collector, Bhiwani.

2.2 The learned Collector, Bhiwani, vide its order dated 17.04.2012 (Annexure P-3), appointed petitioner (Jai Parkash) as Lambardar (General Category) of Village Changrod.

2.3 Feeling aggrieved against the aforesaid order dated 17.04.2012 (Annexure P-3), respondent No.4 (Devender) and respondent No.5 (Raj Pal) preferred two separate appeals before the learned Divisional Commissioner, Hisar, which came to be decided vide common order dated 22.11.2016 (Annexure P-5), thereby, remanding the matter to the Collector, Bhiwani, to compare the merits and demerits of all the candidates and thereafter, selecting the most suitable candidate for the post of Lambardar of Village Changrod, by way of passing a speaking order.

2.4 Being dissatisfied with the aforesaid order dated 22.11.2016 (Annexure P-5), petitioner (Jai Parkash) preferred a revision petition (ROR No.340 of 2016-17) before the learned Financial Commissioner (Revenue), Haryana, which came to be dismissed vide order dated 06.04.2021 (Annexure P-7), thereby further directing the Collector, Bhiwani to initiate *de novo* proceedings for appointment of Lambardar of Village Changrod.

3. In the aforementioned circumstances, petitioner has filed the present writ petition before this Court, seeking relief(s) as noticed hereinabove.

4. Heard.

5. During the course of hearing of the instant writ petition, learned

counsel for the petitioner has not disputed the fact that order dated 17.04.2012 (Annexure P-3) passed by the learned Collector, Bhiwani, whereby, petitioner was appointed as Lambardar (General Category) of Village Changrod, is a totally non-speaking order. Relevant extract of said order dated 17.04.2012 (Annexure P-3) reads as under:-

“I have heard the counsel of all three candidates and perused the file carefully and after perusal found that Sh. Jai Parkash candidate among the three is eligible, hence keeping in view the above facts, Sh. Jai Parkash son of Sh. Sada ram is appointed Nambardar General Category in place of deceased Sh. Sada Ram Nambardar of village Chang Rod, Tehsil Charkhi Dadri, District Bhiwani.”

5.1 Apparently, learned Divisional Commissioner, Hisar, vide its order dated 22.11.2016 (Annexure P-5) had set aside Collector's order dated 17.04.2012 (Annexure P-3) by observing that it was a non-speaking order as the merits and demerits of all the candidates had not been compared. Relevant extract of said order dated 22.11.2016 (Annexure P-5) reads as under:-

“6. After hearing all sides and perusing the record, it is found that the order of Collector is non-speaking order, as the merits and demerits of all the candidates were not compared, although Jai Parkash is claiming hereditary preference, but his father has faced criminal cases for being involved in malpractice and misuse of post of Lambardar. So, giving hereditary benefit to respondent after criminal and fraudulent history of father of respondent is also not justified. Even one of the appellant is facing criminal proceeding.

7. In the light of above said discussion the case is remitted to Collector for comparing the merits and demerits of all the candidates and thereafter selecting the most suitable candidate and passing the speaking order. If Collector finds none of the candidate suitable, then he is free to go for fresh

proclamation. Parties are directed to appear before Collector on 31.01.2017. The file may be consigned to record room. Lower court's record be returned."

6. The learned Financial Commissioner (Revenue), Haryana has dismissed the revision petition filed by the petitioner, vide its order dated 06.04.2021 (Annexure P-7), by observing as under:-

"6. In view of the aforementioned facts & circumstances and after hearing the submissions and contentions of the parties, it transpires that there are serious allegations against the petitioner, which require due deliberations. It is settled proposition of law that the opinion of Collector may not be disturbed even if two views are possible. However, in the instant case, the order of Collector does not reflect that he has assessed the merits and demerits of candidates in judicious manner. Therefore, observation of the Commissioner vide impugned order to consider the merits and demerits and to pass a speaking order are just and legal. Further, the Ld. Commissioner has rightly directed that if Collector finds none of candidate suitable, fresh proclamation may be initiated. Keeping in view peculiar facts and circumstances and the considerable delay in the process of selection of Lambardar, it would be appropriate that all eligible candidates would be given a fair opportunity to participate in the selection process. The petitioner fails to establish any illegality or perversity in the impugned order dated 22.11.2016 as it only directs a fair and impartial selection of the candidate for the post of Lambardar. Therefore, fresh process for appointment of Lambardar ought to be initiated. Thus, the instant revision petition is hereby dismissed being devoid of any merit. The Collector is hereby directed to initiate de novo proceedings for appointment of Lambardar in village Changrod."

7. Learned counsel for the petitioner submits that the petitioner has no objection to the re-consideration of matter by the learned Collector, Bhiwani, for passing a speaking order, however, his only grievance is

against the last line of order dated 06.04.2021 (Annexure P-7) passed by the learned Financial Commissioner (Revenue), Haryana, whereby, the Collector, Bhiwani has been directed to initiate *de novo* proceedings for appointment of Lambardar of Village Changrod.

8. On the other hand, learned counsel for respondent No.4 stated that as the order passed by the Collector, Bhiwani was a non-speaking order, therefore, the matter has been rightly remanded by the Appellate as well as Revisional Authorities. He further submits that respondent No.4 has no objection in case, the last line of order dated 06.04.2021 (Annexure P-7) passed by the Financial Commissioner (Revenue), Haryana, is ordered to be deleted/quashed.

9. Keeping in view the above, since the order dated 17.04.2012 (Annexure P-3), passed by the Collector, Bhiwani, was a non-speaking order, therefore, the matter has been rightly remanded by the learned Divisional Commissioner, Hisar, to the Collector, Bhiwani, for deciding the matter afresh by way of passing a speaking order; however, the direction issued by the Financial Commissioner in the last line of his order dated 06.04.2021 (Annexure P-7) that *de novo* proceedings be initiated, is hereby set aside/quashed.

10. In view of the above, let the matter as regards the appointment of Lambardar of Village Chagrod be considered afresh by the Collector, Bhiwani, from amongst the candidates, who had applied in pursuance of the proceedings initiated upon demise of previous Lambardar, namely Sh. Sada Ram, of Village Changrod, and appoint the most suitable candidate as Lambardar by way of passing a speaking order.

10.1 It is further directed that the Collector, Bhiwani shall render final decision in the matter within a period of six months from the date of

receipt of the certified copy of this order.

11. The present writ petition is accordingly disposed of in the
aforestated terms.

12. All pending application(s), if any, shall also stand closed.

07.01.2025

Apurva

(HARSH BUNGER)

JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No