

2025PHHC:011279



113

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

**CWP-24605-2019
Date of Decision: 21.01.2025**

Dharampal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Rajender Kumar, Advocate,
Mr. Rishabh Chaudhary, Advocate and
Mr. Amardeep Singh Sandhu, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

Ms. Jasneet Mehra, Advocate
for respondent No.6.

HARSH BUNGER J. (ORAL)

Petitioner (Dharampal) 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 impugned order dated 28.04.2015 (Annexure P-1) passed by the learned District Collector, Ambala and order dated 03.04.2019 (Annexure P-3) passed by the learned Financial Commissioner, Haryana.

2. Briefly, on account of demise of Sh. Bant Ram, previous Lambardar of Village Dhanora, Tehsil and District Ambala; proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the aforesaid vacancy, five applications (including the one submitted by the petitioner and another by respondent No.6) were received.

2.1 It appears that the learned District Collector, Ambala, after considering the relative merits and demerits of the candidates, appointed respondent No.6 (Rajbir Singh) as Lambardar of Village Dhanora, vide order dated 28.04.2015 (Annexure P-1).

2.2 Feeling aggrieved against the aforesaid order dated 28.04.2015 (Annexure P-1), petitioner preferred an appeal before the learned Divisional Commissioner, Ambala, which was allowed vide order dated 03.11.2015 (Annexure P-2) and the matter was remanded to the learned District Collector, Ambala, by holding as under:-

“ - x - x -

5. I had heard the arguments of Ld. counsels for the parties and had carefully perused the facts placed on case file. It is cleared from the facts placed on record that in this case, the post of Numberdar was become vacant after the death of Sh. Bant Ram Numberdar on 26.06.1992. The present respondent is the grandson of deceased Numberdar and as per the 10th class certificate his date of birth is 01.06.1987. In this way, at the time of death of his grandfather, he was a child of 5 years old. But the Collector, while overlooking these facts, had mentioned in the order under appeal that the respondent Rajbir had been assisting his grandfather in the works of Numberdari during his life time and in this way he have well knowledge about the works of Numberdar and it is his hereditary claim. As per the abovesaid facts, this conclusion

given by the Collector in the order under appeal has no value. Apart from the same, in the order under appeal, the Collector had considered the present appellant as ineligible for the post of Numberdar on the basis of the report dated 15.11.2014 of District Development and Panchayat Officer, Ambala regarding the illegal possession of the appellant over the Gram Panchayat land, as per which, the appellant is in illegal possession of the Panchayat land adjoining to the Chopal. As per the arguments of the counsel for the appellant, the eviction petition against the appellant is still pending. Apart from it, as per the report dated 11.10.2013 of the Sarpanch Gram Panchayat on page No. 257 of the case file, there is no illegal possession over the land of Dharamshala of the Gram Panchayat. As per my opinion, in view of the abovesaid facts, the order under appeal passed by the lower court cannot be considered to be valid and in this case, it will be the justice to decide the case afresh by the Collector by giving proper opportunity to the parties to explain their part. If any candidate out of both candidates is not found eligible for this post of Numberdar then the District Collector is at liberty to fill this post by conducting a fresh Munadi. Therefore, this case is hereby remanded back to the Collector, Ambala alongwith abovesaid directions. Both the parties have been directed to appear in the lower court on 01.12.2015.”

2.3 Being dissatisfied against the aforesaid order dated 03.11.2015 (Annexure P-2), respondent No.6 (Rajbir singh) preferred a revision petition (ROA No.4 of 2015-16) before the learned Financial Commissioner Haryana, which was allowed vide order dated 03.04.2019 (Annexure P-3), by observing as under:-

“ - x - x -

5. *I have gone through the case file and have considered the arguments advanced by the learned advocates for both the parties. A case for ejectment was filed in the court of Assistant Collector 1st Grade against Balbir Singh father of the*

respondent Dharampal and others for encroachment of land of Dharamshala belonging to Gram Panchayat. Ejectment order was passed on 13.02.1997 still the respondent Dharam Pal is in unauthorised possession of the land. There is no resolution of the Gram Panchayat to show clearance of unauthorised possession and in view of order dated 13.02.1997 of Assistant Collector 1st Grade, writing of Sarpanch that there is no kabza has no meaning.

In these circumstances, I do not find any perversity, illegality in the order of learned Collector and therefore uphold the order passed by the Collector. Person in unauthorized possession of Panchayat land cannot be trusted with the responsibility of Lambardari under any circumstances. The appeal is allowed in the manner indicated above.”

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

4. Heard.

5. A perusal of order dated 03.04.2019 (Annexure P-3) passed by the learned Financial Commissioner, Haryana would suggest that the Divisional Commissioner's order dated 03.11.2015 (Annexure P-2), remanding the matter to the District Collector, was set aside primarily on the ground that Balbir Singh (father of the petitioner) had encroached upon the land of Dharamshala, Village Dhanora.

6. During pendency of the proceedings before this Court, a specific report was sought from the State of Haryana, vide order dated 21.11.2019, regarding the fact that as to whether the father of petitioner Balbir Singh or the petitioner was in illegal possession of the land of Dharamshala of Village Dhanora, Tehsil Amabala. In pursuance thereof,

report dated 10.12.2019 was submitted before this Court, stating that there is no encroachment by the petitioner on the land of Dharamshala.

7. Further, during pendency of these proceedings, it was brought to the notice of this Court that respondent No.6 (Rajbir Singh) has gone abroad, whereupon the learned State counsel was directed to submit a report as to whether respondent No.6 has gone abroad. In pursuance thereof, affidavit dated 17.01.2025 of Sh. Sunil Kumar, Naib Tehsildar, Ambala Cantt., District Ambala, was submitted before this Court, indicating therein that indeed respondent No.6 has gone abroad and has not even sought permission for the same.

8. Faced with this situation, learned counsel for respondent No.6 submits that in the attending circumstances, let the matter be decided afresh by the learned Collector, Ambala.

9. Learned counsel for the petitioner has not raised any objection to the aforesaid course of action to be adopted.

10. Keeping in view the aforesaid submissions made by learned counsel for the parties, order dated 03.04.2019 (Annexure P-3) passed by the learned Financial Commissioner, Haryana and also order dated 03.11.2015 (Annexure P-2) passed by the learned Divisional Commissioner, Ambala and order dated 28.04.2015 (Annexure P-1) passed by the learned Collector, Ambala are set aside and the matter is remitted to the learned Collector, Ambala to decide the matter afresh after giving due opportunity of hearing to all the concerned parties.

10.1 Since the matter is pending for the last more than ten years, the District Collector, Ambala is directed to make earnest endeavour to decide the same expeditiously and preferably within a period of six months from the date of appearance of the parties before him.

- 10.2
- The parties are directed to appear either personally or through their respective counsel(s) before the Collector, Ambala on 24.02.2025.
11.
- The instant writ petition is disposed of in the aforestated terms.
12.
- All pending application(s), if any, shall also stand closed.

21.01.2025
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No