

(2019) 01 P&H CK 0343

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10642 Of 2018, Civil Miscellaneous No. 13587 Of 2018

Mohinder Singh

APPELLANT

Vs

State Of Punjab And Ors

RESPONDENT

Date of Decision : 08-01-2019

Acts Referred:

Citation : (2019) 01 P&H CK 0343

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Mohd. Yousaf

Final Decision : Dismissed

Judgement

Augustine George Masih, J

CM-13587-CWP-2018

C.M. is allowed subject to just exceptions. Translated copy of order passed by the SDM, Jalandhar is taken on record as Annexure P-6 and filing of certified copy of the same is dispensed with.

Prayer in this writ petition is for setting aside the order dated 28.02.2017 (Annexure P-3) passed by the Financial Commissioner, Revenue, Punjab, Chandigarh-respondent No. 2, the order dated 04.05.2016 (Annexure P-2) passed by the Divisional Commissioner, Jalandhar Division, Jalandhar-respondent No. 3 and the order dated 21.07.2014 (Annexure P-1) passed by the the Collector-cum-Deputy Commissioner, Jalandhar, District Jalandhar-respondent No. 4, whereby the appointment of respondent No. 5-Satnam Singh as Lambardar of Village Gakhal, Tehsil and District Jalandhar, has been upheld.

It is the contention of the learned counsel for the petitioner that initially MUNADI was carried out in the village and in pursuance thereto, candidates applied. The said MUNADI was doubted by the Sub-Divisional Magistrate Jalandhar-II and he

had, vide order dated 22.01.2013 (Annexure P-6), by implication, set aside the said MUNADI and ordered fresh MUSTRI MUNADI in the village and in pursuance thereto, for recommending the names of the eligible candidates to be sent for consideration for appointment to the post of Lambardar. His further contention is that on the assigned date, respondent No. 5 did not appear before the Tehsildar, Jalandhar-II and had straight away appeared before the Collector-cum-Deputy Commissioner, Jalandhar, District Jalandhar-respondent No. 4. Since he had not appeared, his name was not sent to the Collector by the Tehsildar, Jalandhar-II. He, thus, contends that the candidature of respondent No. 5 should not have been considered by the Collector-cum-Deputy Commissioner, Jalandhar, District Jalandhar while considering the claim of the candidates who had applied in pursuance to the fresh MUNADI carried out in pursuance to the order dated 22.01.2013 (Annexure P-6) passed by the Sub-Divisional Magistrate Jalandhar-II. That apart, he asserts that respondent No. 5 is working in a hair cutting saloon in Jalandhar and, therefore, has to stay there at least up to 8 P.M. and thus, would not be available for the purpose for which he has sought his appointment as Lambardar. He, thus, contends that the orders passed by the authorities below appointing respondent No. 5 as Lambardar of Village Gakhal, Tehsil and District Jalandhar, cannot sustain and deserve to be set aside.

I have considered the submissions made by the learned counsel for the petitioner and with his assistance, have gone through the impugned orders.

As regards the first contention of the learned counsel for the petitioner that respondent No. 5-Satnam Singh son of Chanan Singh has not applied in pursuance to the order dated 22.01.2013 (Annexure P-6) passed by the Sub-Divisional Magistrate Jalandhar-II, whereby fresh MUSTRI MUNADI in the village seeking candidature from the persons eligible for consideration for appointment to the post of Lambardar, is concerned, the order is clear and apparent, according to which, the candidates, who had already applied, were not required to apply again for the purpose of consideration to the post of Lambardar. Operative part of the order dated 22.01.2013 (Annexure P-6) reads as follows:-

"After going through the statements of both the candidates and statement made by the village Chowkidar Jeet Ram, I have come to the conclusion that Jeet Ram Chowkidar of the village has changed his statements again and again and a doubt has been created in my mind regarding the fairness and impartiality regarding the procedure in this matter. Therefore, the present case is being remanded back to the Tehsildar Jalandhar-II and he has been instructed to make fresh mustri munadi in the village, after that name of some eligible candidates be sent to this Court. Candidates are directed to appear before the Tehsildar Jalandhar-II on 22.01.2013."

The last line of the above reproduced order leaves no manner of doubt that the candidates, who had already applied for the post of Lambardar, were not required to apply again. It is not in dispute that earlier respondent No. 5-Satnam Singh had applied for the post and was being considered for appointment to the

post of Lambardar. The contention, thus, of the counsel for the petitioner with regard to he having not applied in pursuance to the fresh MUSTRI MUNADI and thus, his candidature should not be considered, cannot be accepted.

Similar is the position with regard to non-appearance of respondent No. 5-Satnam Singh before the Sub-Divisional Magistrate Jalandhar-II when admittedly an application has been submitted by him for consideration for appointment to the post of Lambardar and he, on appearance before the Collector-cum-Deputy Commissioner, Jalandhar, District Jalandhar-respondent No. 4, has asserted his right for consideration for appointment to the post of Lambardar of Village Gakhal, Tehsil and District Jalandhar, this Court does not find any illegality or irregularity in the action of the Collector, Jalandhar.

As regards the comparative merit of the candidates is concerned, the petitioner is a Matriculate and a retired person being handicapped of 65 years of age. He has been found to be physically weak and is suffering from kidney and heart disease, as observed in the order dated 04.05.2016 (Annexure P-2) passed by the Divisional Commissioner, Jalandhar Division, Jalandhar-respondent No. 3 whereas respondent No. 5 is a 48 years old man studied up to Graduation and fulfills all the credentials for appointment to the post of Lambardar.

The assertion with regard to respondent No. 5 having been working in the saloon has been repelled by the authorities by asserting that the said aspect has been specifically denied by respondent No. 5.

Keeping in view the comparative merit of the candidates and especially the initial choice, as exercised by the Collector-cum-Deputy Commissioner, Jalandhar, District Jalandhar, which has to be respected, the orders, as passed by the authorities below, being in accordance with law do not call for any interference by this Court in exercise of its extra-ordinary writ jurisdiction.

In view of the above, the writ petition stands dismissed.