
(2014) 11 P&H CK 0130
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 6280 of 2014

Ram Phal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Citation : (2015) 1 RCR(Civil) 893

Hon'ble Judges : Rajan Gupta, J

Bench : Single Bench

Advocate : Kshitija Mittal, Advocates for the Appellant; Saurabh Mohunta, DAG, Advocates for the Respondent

Judgement

Rajan Gupta, J.—Present petition has been filed for issuance of writ in the nature of certiorari for quashing of order, Annexures P15 dated 06.08.2013 whereby respondent No. 5 was ordered to be appointed as Lambardar of the village. Learned counsel for the petitioner has assailed the order. She submits that petitioner was initially appointed by the Collector. After matter was remanded by the higher authority, Collector took a different view from what had been taken earlier. No cogent reason has been assigned therefor. Impugned order is, thus unsustainable and deserves to be set-aside.

2. Plea has been vehemently opposed by learned counsel representing respondent No. 5. He submits that there is no infirmity with the impugned order. Same is sustainable.

Heard.

3. Brief factual background of the case is that after death of Lambardar of village Satrod Khurd, District Hisar process for fresh appointment was initiated. Collector found both the candidates ineligible and vide his order dated 18.01.2011 ordered fresh proclamation. Said order was challenged before the revisional authority by respondent No. 5. He vide his order dated 03.05.2011 remanded the matter to Collector for fresh adjudication and to reconsider the relative merit of both the

candidates. Thereafter, parties appeared before the said authority. After considering rival contentions, Collector vide his order dated 07.06.2011 appointed petitioner as Lambardar. Respondent No. 5 preferred appeal before Commissioner, Hisar Division. Same was, however, dismissed on 13.09.2011. Dissatisfied, he filed a revision before the Financial Commissioner who vide his order dated 20.12.2011 remanded the matter to Collector for decision afresh. Consequently, matter was reconsidered by the Collector. Vide order dated 21.08.2012, he directed that respondent No. 5 be appointed as Lambardar. Petitioner filed appeal before the Commissioner, Hisar Division. Vide his order dated 25.06.2013, Commissioner set-aside the order passed by Collector. Respondent No. 5 challenged said order before the revisional authority who vide order dated 06.08.2013 reversed the order of Commissioner and upheld the order dated 21.08.2012 passed by Collector. Aggrieved, present petition has been filed.

4. I am of the considered view that order appointing respondent No. 5 as Lambardar is unsustainable. At the initial stage, Collector considered relevant factors. After considering the same, he found that family background of the petitioner was good. Forty five respectable of the village had recommended his name. At the time of consideration, petitioner was 34 years of age while respondent was only 26 years old. Both had almost equal land holdings. Though respondent No. 5 was better qualified even petitioner was metric pass. For the post of Lambardar, this qualification would suffice. Besides, availability of petitioner being more as respondent No. 5 was employed in Jindal hospital Hisar, Collector found him more suitable. There is no reason forthcoming on record for Collector to have formed a different view on the basis of same material. According to judgment of the apex court in Mahavir Singh Vs. Khiali Ram and Others, normally preference has to be given to choice of Collector. In the instant case, Collector reconsidered suitability of candidates in view of remand order. However, no cogent reason has been assigned in order Annexure P13 to arrive at a different conclusion regarding suitability of candidates. Plea of the petitioner, thus, merits acceptance. Impugned orders, Annexures P13 & P15 are hereby set-aside. Petitioner will be entitled to continue as Lambardar of the village. Petition is allowed in these terms.