

(2011) 10 P&H CK 0131

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 18521 of 2011

Roshan Lal

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision: Oct. 31, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226, 227
- Penal Code, 1860 (IPC) - Section 323, 325

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Mehinder Singh Sullar, J.

The epitome of the facts, culminating in the commencement, relevant for the limited purpose of deciding the core controversy, involved in the instant writ petition and emanating from the record, is that, in the wake of death of Goma Ram, the post of Lambardar of village Thanwas, Tehsil Narnaul, Distt.Mahendergarh, had fallen vacant. To begin with, three candidates applied, but subsequently, since Khem Chand did not pursue his claim, so, only two candidates, namely, Roshan Lal son of Prabhata Ram (petitioner) and Amar Singh son of Chander Bhan (respondent No.6) pursued and lodged their respective claims for the indicated post of Lambardar.

2. Having considered the respective merits and de-merits of the candidates and after following the due procedure, as contemplated under the provisions of The Punjab Land Revenue Act, 1887 and the Rules framed thereunder (hereinafter to be referred as "the Act and the relevant Rules"), the Collector (respondent No.3) ignored the candidature of petitioner and appointed Amar Singh (respondent No.6) as Lambardar of the village, by virtue of impugned order dated 16.11.2007 (Annexure P1).

3. Dissatisfied with the order (Annexure P1), the petitioner filed the appeal, which was also dismissed by the Commissioner, Gurgaon Division (respondent No.2), by way of impugned order dated 10.6.2011 (Annexure P2).
4. Aggrieved by the orders (Annexures P1 & P2), the petitioner filed the revision petition, which was dismissed as well, by the Financial Commissioner, Haryana (respondent No.1), by means of impugned order dated 10.8.2011 (Annexure P3).
5. The petitioner still did not feel satisfied with the impugned orders (Annexures P1 to P3) and preferred the instant writ petition, invoking the provisions of Articles 226/227 of the Constitution of India.
6. After hearing the learned counsel for the petitioner, going through the record with his valuable help and after considering the entire matter deeply, to my mind, there is no merit in the present writ petition.
7. Ex facie, the argument of learned counsel that the petitioner is more meritorious candidate than respondent No.6 and since the authorities below have wrongly ignored his (petitioner) claim, so, the impugned orders (Annexures P1 to P3) deserve to be set aside, sans merit.
8. As is evident from the record that, having considered the respective pros and cons of the candidature of the candidates and after following the due procedure, as envisaged under the provisions of the Act and relevant Rules, the Collector appointed Amar Singh (respondent No.6) as a Lambardar on the indicated post, through the medium of impugned order (Annexure P1), which, in substance, is as under:

After hearing both the parties and their counsel and after perusing the evidence available on the record, it is found that against applicant Roshan Lal, a case was registered under Sections 323, 325 IPC in which he was acquitted. An FIR was registered against him under the Excise Act. Apart from it he has wrongly disclosed his age as 50 years. He is about 60 years of age. His eldest and 1st child date of birth is 11.11.1968 i.e. he is 39 years in age. He does not reside in the village rather at the meat shop in Nangal Chaudhary. The other applicant Amar Singh is the nephew of deceased Lambardar Goma Ram, having knowledge of Lambardari work. He always resides in the village. He is lesser in age to the other candidate Roshan Lal. In comparison to Roshan Lal, Amar Singh enjoys better reputation. Thus, Amar Singh son of Chander Bhan caste Khatik is hereby ordered to be appointed as Harijan Lambardar of village Thanwas to the post which had fallen vacant on account of the death of Goma Ram Lambardar.
9. Not only that, the order/choice of the Collector was confirmed by the Commissioner and Financial Commissioner.
10. Moreover, it is not a matter of dispute that the Collector is the appointing authority of the Lambardar. The appointment of Lambardar is administrative

function and is prerogative of the District Collector, being In-charge of the Administration. It is the duty of the Collector to appoint such persons in the office of Lambardar, who are eligible and competent to carry out the duties efficiently. He is in an advantageous position to examine the merits and demerits of the candidates. The choice of the Collector in the matter of appointment of village Lambardar should not normally be interfered with, unless the Collector has taken a perverse view and has not exercised his choice judiciously.

11. The learned counsel for the petitioner did not point out any legal violation and material, much less cogent, to contend as to how and in what manner, the impugned orders of the authorities below are illegal and would invite any interference in this relevant behalf.

12. No other meaningful argument has been raised by the learned counsel for the petitioner to assail the impugned orders. All other celebrated arguments, now sought to be urged on his behalf in this relevant direction, have already been duly considered and dealt with by the authorities below.

13. Meaning thereby, the authorities below have recorded the cogent grounds in this relevant connection. Such orders, containing valid reasons, cannot possibly be interfered with by this Court, while exercising the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India, unless and until, the same are illegal and perverse. Since no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, so, the impugned orders (Annexures P1 to P3) deserve to be and are hereby maintained, in the obtaining circumstances of the case.

14. No other legal point, worth consideration, has either been urged or pressed by the counsel for the petitioner.

15. In the light of aforementioned reasons, as there is no merit, therefore, the instant writ petition is hereby dismissed as such.