

Supreme Court of India

Inderaj vs Financial Commissioner And ... on 19 February, 1993

Equivalent citations: AIR 1994 SC 753, 1994 LabLC 683, 1994 Supp (3) SCC 683

Bench: K Ramaswamy, R Sahai

JUDGMENT

1. Leave granted.

2. The appellant, respondent and another one by name Chhatter Singh, had applied for appointment to the post of Lamberdar (Headman) of the village Umarwas, Tahsil Dadri, District Bhiwani in the State of Haryana.

3. The primary authority found the appellant eligible for appointment.

4. The District Collector, Bhiwani, appointed the appellant with the following findings:

He is an ex-serviceman and he is a healthy person of 46 years and he participates in the Government activities and he has good relations in the village. On the basis of the facts Inderaj son of Kanshi Ram, resident of village Umarwas, Caste Nai, is a proper person to be appointed as the Lamberdar of the village.

5. The respondent preferred an appeal before the Commissioner, Hissar Division. His appeal was dismissed by the Commissioner, Hissar Division.

6. The respondent preferred revision petition before the Financial Commissioner, Haryana. The Financial Commissioner, Haryana, vide his order dated 31-1-1992 set aside the appointment of the appellant on the ground that the appellant was in arrears to the Land Mortgage Bank, Bhadra, and it is a serious embarrassment as contemplated under Rule 19-B of the Rules. Accordingly, he set aside the order of appointment of the appellant against which the appellant filed the writ petition in the High Court of Punjab and Haryana. The writ petition ultimately was dismissed by the High Court. Challenging the correctness thereof, the appellant had filed this appeal by special leave.

7. Rule 19-B of the Land Revenue Rules, Haryana, reads as under:

19-B. Notwithstanding anything to the contrary contained elsewhere in these rules, where the population of Harijans, or members of the Scheduled Castes including Christians, as ascertained at the last preceding census is 100 or more in an estate, there shall be appointed one additional headman from amongst the Harijans or members of Scheduled Castes including Christians subject to the following conditions:

(i) In appointing the headman, regard shall be had among other matters, to-

(a) services rendered to the State by himself or by his family;

(b) This personal influence, character, ability and freedom from indebtedness.

(ii) He shall be dismissed when he is sentenced to imprisonment for one year or upwards or to any heavier sentence.

(iii) He may be dismissed when

(a) criminal proceedings which have been taken against him show that he is unfit to be entrusted any longer with the duties of his office; or

(b) he is seriously embarrassed by debt;

(c) owing to age or physical or mental incapacity or absence from the estate, he is unable to discharge the duties of his office; or

(d) there is reason to believe that he has taken part in or concealed illicit distillation, or the smuggling of cocaine, opium or charas;

(e) he takes part in any unconstitutional agitation against the Government or fails to give his active support to the Government in the maintenance of law and order; or

(f) he neglects to discharge his duties or is otherwise shown to be incompetent.

(iv) He shall perform all duties prescribed in Rule 20 of these Rules except those prescribed in Clauses (i) to (iv) thereof.

(v) He shall not be entitled to any remuneration in the form of pectoral etc.

8. The Financial Commissioner relying upon Rule 19-B(iii)(b) had upset the appointment of the appellant on the ground that the appellant was in debt to the Land Mortgage Bank and that it would be a serious embarrassment to him. As per the certificate produced by the appellant, he had cleared the debt on 28-6-1988 though the last date for applying to the said post was 28-12-1987. Therefore, before the date of appointment, the appellant had cleared the debt. Accordingly, the question of serious financial embarrassment due to indebtedness does not arise. The Revisional Authority had taken irrelevant factor into consideration in upsetting the appointment of the appellant. The appellate authority had considered the relative merits of the candidates and found the appellant to be more suitable. The Revisional Authority would have been circumspect in upsetting the appointment on the ground which is not relevant as on the date.

9. The appeal is accordingly allowed. The order of the High Court is set aside and that of the Revisional Authority is also quashed. The order of the appellate authority is confirmed. No costs.