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

CWP-13974-2025

Date of Decision: 20.05.2025

Kulwinder Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sandeep S.Jattan, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

Mr. Divyam Singh, Advocate
for respondent No.6.

HARSH BUNGER J. (ORAL)

Petitioner (Kulwinder Kumar) 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 order dated 16.04.2025 (Annexure P-3) passed by the learned Divisional Commissioner, Ambala.

2. Briefly, upon demise of Sh. Som Nath, previous Chowkidar of Village Kalal Majra, Sub Tehsil Shahzadpur, Tehsil Naraingarh, District Ambala; proceedings for filling up the said vacancy were initiated. In pursuance thereof, eight applications (including the one submitted by the petitioner – Kulwinder Kumar and another by respondent No.6 – Ram Pal) were received.

2.1 The learned Deputy Commissioner, Ambala, after considering the relative merits and demerits of the candidates, appointed petitioner (Kulwinder Kumar) as Chowkidar of Village Kalal Majra, vide order dated

19.01.2021 (Annexure P-1).

2.2 Feeling aggrieved against the aforesaid order dated 19.01.2021 (Annexure P-1), respondent No.6 (Ram Pal) preferred an appeal before the learned Divisional Commissioner, Ambala, who, vide its order dated 16.04.2025 (Annexure P-3) set aside order dated 19.01.2021 (Annexure P-1) and appointed respondent No.6 (Ram Pal) as Chowkidar of Village Kalal Majra.

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

4. Notice of motion.

5. At this stage, Ms. Upasana Dhawan, Assistant Advocate General, Haryana and Mr. Divyam Singh, Advocate, accept notice on behalf of the respondent-State and caveator-respondent No.6, respectively. Caveat stands discharged. Since the impugned proceedings/orders are *quasi judicial* in nature, learned counsel for respondent No. 6 has chosen to argue the matter.

6. Heard.

7. Here, it would be apposite to refer to the relative merits of petitioner (Kulwinder Kumar) and respondent No.6 (Ram Pal), as noticed by the learned Deputy Commissioner, Ambala, vide its order dated 19.01.2021 (Annexure P-1):-

	<i>Kulwinder Kumar</i>	<i>Ram Pal</i>
<i>Age</i>	<i>33 years</i>	<i>30 years</i>
<i>Education</i>	<i>10th standard</i>	<i>10th standard</i>
<i>Resident of</i>	<i>Village Kalal Majra, Sub Tehsil Shahzadpur, Tehsil Naraingarh, District Ambala</i>	<i>Village Kalal Majra, Sub Tehsil Shahzadpur, Tehsil Naraingarh, District Ambala</i>

7.1 A perusal of the aforesaid comparison would leave no manner of doubt that there is hardly any age difference between the petitioner and respondent No.6; both of them have studied up to 10th standard; and both are the residents of Village Kalal Majra.

8. A perusal of order dated 19.01.2021 (Annexure P-1) shows that the learned Deputy Commissioner, Ambala, upon interaction with the candidates, found that it was the petitioner (Kulwinder Kumar), who had given correct answers to the queries made as regards the duties to be performed by the Chowkidar; and accordingly, appointed petitioner as Chowkidar of Village Kalal Majra; whereas, the Divisional Commissioner, Ambala has set aside the appointment of petitioner (Kulwinder Kaur) as Chowkidar of Village Kalal Majra and appointed respondent No.6 (Ram Pal) as the Chowkidar, vide its order dated 16.04.2025 (Annexure P-3), by simply observing that in his opinion, respondent No.6 is more qualified than the petitioner.

9. In my considered view, once the candidates had been equally placed and upon interaction with them, the learned Deputy Commissioner, Ambala had found the petitioner to be more suitable and accordingly, appointed him as Chowkidar of Village Kalal Majra; then the Divisional Commissioner, Ambala should have respected the choice of Deputy Commissioner and the same could not have been set aside by the learned Divisional Commissioner, only by observing that he found respondent No.6 to be more qualified. Learned Divisional Commissioner, while exercising Appellate jurisdiction, could have interfered with the order of Deputy Commissioner, if the same suffered from any patent illegality or perversity.

10. In view of the above discussion, order dated 16.04.2025 (Annexure P-3) passed by the Divisional Commissioner, Ambala is set aside

and order dated 19.01.2021 (Annexure P-1) passed by the District Collector, Ambala, appointing the petitioner as Chowkidar of Village Kalal Majra, is maintained. Accordingly, the instant writ petition stands allowed.

11. All pending application(s), if any, shall also stand closed.

20.05.2025

Apurva

(HARSH BUNGER)

JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No