



2025:HHC:21729

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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.4315 of 2019

Reserved on: 26.06.2025

Date of Decision: 08.07.2025

Parkash Chand

...Petitioner

Versus

State of H.P. & others

...Respondents

Coram

Hon'ble Mr. Justice Satyen Vaidya, Judge

Whether approved for reporting? No.

For the petitioner: Ms. Ambika Kotwal, Advocate.

For the respondents: Mr. Hemant K. Verma, Deputy Advocate General, for respondents No.1, 3 and 4.
Mr. Jai Devi Thakur, Advocate, for respondent No.2.
Mr. Dinesh Thakur, Advocate, for respondent No.5.

Satyen Vaidya, Judge

The instant petition has been filed for the following
substantive relief:

“(i) That the Annexure-P-11 may be quashed and set-aside, whereby the respondent No.5 has been appointed at the post of Panchayat Chowkidar in Gram Panchayat Binola and the appointment letter issued if any in favour of respondent No.5 may be quashed and set-aside.

(ii) That the respondents No.1 to 4 may be directed to give the appointment to the petitioner at the Post of Panchayat Chowkidar in Gram Panchayat Binola, Tehsil Sadar, Distt. Bilaspur.



(iii) *That in alternative respondents No.1 to 4 may be directed to adjust the petitioner by granting him employment in Gram Panchayat Binola.”*

2. The petitioner has challenged the selection of private respondent No.5 to the post of Chowkidar in Gram Panchayat Binola, Tehsil Sadar, District Bilaspur and has further sought a direction against respondents No.1 to 4 to appoint the petitioner on the said post.

3. According to the petitioner, private respondent No.5 was appointed as Chowkidar in Gram Panchayat Binola on 14.08.2010. The petitioner had challenged such appointment by filing appeal under Section 148 of the Panchayati Raj Act (for short, “the Act”) read with Rule 14 of Panchayati Raj Rules, 1997 (for short, “the Rules”) before the Sub Divisional Magistrate, Sadar, District Bilaspur. The appointment of private respondent No.5 was set aside *vide* order dated 16.03.2012.

4. Thereafter, on 10.01.2013, Gram Panchayat Binola again issued notice inviting applications for the post of Panchayat Chowkidar detailing *interalia* the following terms and conditions:

- (a) That the applicants should be permanent resident of Gram Panchayat Binola;
- (b) the age of the applicants should not be less than 18 years and more than 45 years;
- (c) the applicants should be minimum 8th pass; and



(d) the appointment to the post of Panchayat Chowkidar will be done as per the Act and Rules.

5. The petitioner and private respondent submitted their applications. The petitioner remained unsuccessful and the respondent No.5 was appointed as Panchayat Chowkidar.

6. The petitioner has taken exception to the selection of private respondent and his rejection on the following grounds:

(i) the terms and conditions as contained in notice dated 10.01.2013 were in violation of the Rules. It has been contended that since, no such condition was stipulated in the Rules, the Panchayat of its own could not have introduced the same;

(ii) the appointment of respondent No.5 is arbitrary as his appointment had already been quashed by the Sub Divisional Magistrate, Sadar, District Bilaspur *vide* order dated 16.03.2012;

(iii) though petitioner had been called for interview on 08.02.2013, but was not interviewed. The entire process was merely an eyewash to accommodate private respondent No.5 as he was the son of Ward Member of same Panchayat; and

(iv) the petitioner belongs to BPL category.



7. The petitioner has also staked his claim to the post of Panchayat Chowkidar on the grounds that the mother of respondent No.5 was getting military pension, whereas no member of family of the petitioner was employed and also that the petitioner is disabled to the extent of 75%, whereas private respondent No.5 has only 50% disability.

8. The respondents have contested the claim of the petitioner. An objection as to maintainability of this petition has been raised on the ground that the petitioner had alternative remedy of filing appeal under Section 148 of the Act. It is submitted that the petitioner was not eligible as he was neither middle pass nor under the age of 45 years. As regards the conditions of selection notified *vide* notice dated 10.01.2013, it has been submitted that the conditions were introduced in terms of Recruitment and Promotion Rules for the post of Chowkidar notified by the State Government which had application to various departments of the State Government except the Vidhan Sabha Secretariat and High Court.

9. I have heard learned counsel for the parties and have also gone through the record carefully.

10. The petitioner has placed reliance on a document Annexure P-2, which is a copy of School Leaving Certificate of the petitioner. As per this document, the date of birth of the



petitioner is 10.02.1966 and he is middle class fail. Thus, as per notice dated 10.01.2013, the petitioner was not eligible on both the counts. Firstly, he did not possess the educational qualification and secondly, he was above 45 years of age.

11. The challenge by the petitioner to the conditions of appointment notified *vide* notice dated 10.01.2013 also cannot be sustained for the simple reason that the petitioner opted and participated in the selection process with wide open eyes having noticed the conditions introduced by notice dated 10.01.2013. He cannot be allowed to challenge the selection process in which he has already participated on the ground that the conditions were inequitable or *dehors* the Rules.

12. Even otherwise, it cannot be said that the conditions were unreasonable as the similar conditions find mention in the R&P Rules issued by the State Government for the post of Chowkidar Class IV (non-gazetted). The Rules also do not forbid introduction of reasonable conditions for appointment. Rule 137 of the Rules deals with all the officers and servants of Panchayat. The CCS Conduct Rules, 1965 are made applicable to the officers and servants of the Panchayats. Merely because qualifications on which the selection of officers and servants of Panchayat would be made has not been specifically provided in



Rule 137, it will not mean that a person without any qualification can be appointed on any of the posts in the Panchayat.

13. The retirement age of Panchayat servant is 58 years. The petitioner has already crossed the age of retirement. The private respondent was appointed in the year 2013 and he is now working since last about 12 years.

14. Lastly, the allegation of nepotism also deserves to be rejected as there is no specific bar that a person related to the office bearer of the Panchayat cannot be appointed as Panchayat servant. The only prohibition under Rule 137 is that the office bearer, in such a case, will not participate in the selection process. There is nothing to show that the mother of private respondent had participated in the selection process.

15. In view of what has been held above, this Court does not find any need to delve into the question of maintainability of the writ petition in view of alternative remedy available to the petitioner.

16. In light of above discussion, I do not find any merit in the petition and the same is accordingly dismissed along with pending application(s), if any.

(Satyen Vaidya)
Judge

July 08, 2025
(vt)