

IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU  
Present:- Dr. Raghav Langer, IAS

File No.

Date of Institution

Date of Decision

11/Revision  
2017-18

24.04.2017

09-10-2021

Parshotam Kumar S/o Late Sh. Prem Nath R/o Jagwal, Tehsil Majalta District  
Udhampur

**..Petitioner**

Versus

1. Sunil Kumar S/o Sh. Mohan Lal r/o Jagwal, Tehsil Majalta District Udhampur.
2. Tehsildar Majalta District Udhampur.

**..... Respondents.**

**IN THE MATTER OF :-**

Revision against the order of respondent no. 2 whereby he has initiated the process of conducting the election of Lambardar of Village Jagwal Tehsil Majalta District Udhampur in gross violation of Lambardari Act and Rules framed thereunder whereby the appointment of petitioner as Lambardar is under stake.

Appearing Counsel:-

Advocate Mukesh Kumar Sharma for the Petitioners.

*Langer*



Advocate Vilakashana Singh for the respondent no. 1

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### **J U D G M E N T**

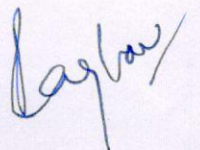
The present revision petition has been filed by the petitioner against the order of respondent no. 2 whereby he has initiated the process of conducting the election of Lambardar of Village Jagwal Tehsil Majalta District Udhampur in gross violation of Lambardari Act and Rules framed there under whereby the appointment of petitioner as Lambardar is under stake. The assertions contained in the petition are:

1. That the petitioner was temporarily appointed as Lambardar of Village Jagwal Tehsil Majalta District Udhampur by the order of respondent no. 2 dated 24-02-2016 against an available vacancy which was caused due to the death of earlier Lambardar Mohan Lal S/O Hari Ram for the administration and smooth functioning of village Jagwal, Tehsil Majalta District Udhampur after adopting due process of law.
2. That the mother of the respondent no. 1 namely Chanchala Devi W/o Sh. Mohan Lal challenged the aforesaid order of respondent no. 2 before the Ld. Deputy Commissioner, Udhampur by way of appeal and the Ld. Deputy Commissioner Udhampur by virtue of order dated 30-11-2016 confirmed the appointment of petitioner, as such dismissed the appeal.
3. That the order of Ld. Deputy Commissioner has attained the finality since the same was not challenged in the higher forum by said Chanchala Devi (mother of respondent no. 1)

*Laghu*



4. That the petitioner is working as Lambardar of Village Jagwal since his appointment and even before his appointment. The Tehsildar concerned has also issued Dhal Bach Register to the petitioner and the petitioner has recovered Chowkidara for the last three years from the villagers as well as performing his duties till date.
5. That the petitioner approached the respondent no. 2 for copy of the said notification or order whereby the notice for the conduct of election has been issued by the respondent no. 2 but respondent no. 2 not issued any such order/notification whereby the process for the conduct of election came to be initiated.
6. That the impugned order has violated principles of natural justice as no notice of cancellation of appointment of the petitioner as Lambardar was issued to the petitioner. Hence, the order impugned is liable to be set aside on this score only.
7. That the order of the Tehsildar is illegal, arbitrary and without application of mind.
8. That no notification was issued for election in the Government Gazette regarding general election of Lambardar. Hence, the order impugned is liable to be set aside.
9. That the order came to be passed by the Court below under the influence of respondent no. 1. Hence the order impugned is liable to be cancelled.
10. That despite having knowledge, the petitioner have been confirmed by the Deputy Commissioner, Tehsildar has passed the order for election is





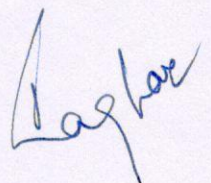
also liable for disciplinary action for not honouring the order of his superior. Hence the order impugned is liable to be quashed

On presentation of the Revision Petition, respondents were put to notice, respondent no. 1 appeared through his Counsel and contested the case.

**Ld. Counsel for respondent no. 2 has submitted his written arguments in the case, which states thus:**

1. That the petitioner has not annexed any copy of the order challenged by him before the Hon'ble court. As such the petition filed by the petitioner is not maintainable. Due to non-filing of the copy of the impugned order.
2. That the appointment of petitioner as temporary Lambardar by the respondent no. 2 is illegal and against the express provisions of J&K Lambardari Rules, 1980. Except Divisional Commissioner, no authority is competent to fill a vacancy of Lambardar caused due to death of a serving Lambardar. The relevant rule dealing with the situation arising after the death of the serving Lambardar is dealt in Rule 17 of J&K Lambardari Rules, 1980.
3. That inhabitant of village Jagwal have passed a resolution to the effect that petitioner is not acceptable to them as Lambardar of village Jagwal.

**Respondent no. 2 also filed his response in the case. He submitted that:**





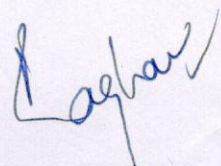
1. That Parshotam Kumar was appointed as Lamberdar of village Jagwal, Tehsil Majalta vide No. 430-33/N/M dated 24-02-2016.
2. That the Deputy Commissioner, Udhampur vide order issued under endorsement No. 718-19/ARA/DCR dated 30-11-2016 has confirmed the aforementioned appointed order.
3. That there was no cogent reason for issuing summon for conduct of election for fresh appointment of lambarder of village Jagwal since the Lambarder of the said village was already appointed by his office and confirmed by District Collector.
4. That the petitioner (Parshotam Kumar) has been working as Lamberdar since the date of his appointment. He is discharging his duties diligently and no complaint has ever been received regarding his conduct.

On 03-09-2021, Ld. Counsel for petitioner is given another opportunity to orally argue in the instant revision petition on the next date of hearing. Again the case was listed on 10-09-2021, but despite given opportunity for arguing the case, Id. Counsel for petitioner preferred not to appear before the Court and therefore, oral arguments of the Ld. Counsel for respondent no. 1 were heard and case fixed for order

**Held:**

**I have applied thoughtful consideration to the whole matter, examined the record and heard the Ld. Counsel for the petitioner and ARA for the State.**

From the perusal of record, it reveals that the main cause of action accrued due to the notification issued by the Tehsildar, Majalta vide dated





226/N/M dated 22-04-2017 for Election of the Lambardar wherein he has invited the application from the general public for election of the Lambardar of village Jagwal.

Whereas as per the resolution submitted by the inhabitant of village Jagwal in a meeting held on 25-05-2017, in which it was decided by all the peoples of village Jagwal that Lambardar was not appointed under Rules and their consent was not taken while appointing the Lambardar. No election has been held for appoint of Lambardar and Mr. Parshotam Kumar is not acceptable as Lamberdar to the public of village Jagwal.

**Section 14 of J&K Lambardari Rule, 1980 states thus:**

**14. Election.**

(1) A general Election of Lambardar shall be held in accordance with these rules, within such time and within such areas as may be prescribed by the Revenue Minister by a Notification in the Government Gazette.

(2) Till a general election is held the existing Lambardars appointed against the permanent posts shall continue. The vacancies, if any may be filled by nominations.

(3) Where a vacancy is ordered to be filled by election, such election shall take place in accordance with these rules and the Revenue Minister may, in respect of the vacancy so filled by selection, order, that no fresh election shall take place till the next election or till the constituency again fall vacant.

(4) Subject to the provisions of sub-rule(2) where the vacancy is not filled by the election, the appointment to a vacant post of Lambardar shall be made by the Revenue Officer not below the rank of Tehsildar subject to confirmation by the collector.



**Section 11 of Lambardari Rules, 1980 also read thus :**

Temporary appointment of a substitute and his duties

- (1) The Tehsildar may appoint a substitute in place of the Lambardar placed under suspension under rule 8 or 10 as the case may be.
- (2) In case a Lambardar remains, with the permission of the Tehsildar, absent exceeding six months or is unable to perform the duties imposed upon him under these rules, a substitute may be appointed in his place.
- (3) A substitute (Lambardar) appointed under the above sub-rules shall be entitled to the remuneration payable or the amounts to be recovered by him during the period of suspension of a Lambardar and perform all duties mentioned in rule 6.

**Section 12 of Lambardari Rules, 1980 also reads as under:**

11. Removal of the substitutes
  - (1) In making appointments of substitutes election shall not be resorted to, but the substitute shall possess all the qualifications and shall not suffer from any disabilities that apply to the election of the Lambardar.
  - (2) A substitute may be removed at any time by appointing authority either on his own or for any reason which will justify his removal.

As per Section 14 of Lambardari Rules, 1980, Tehsildar has no power to hold general election of Lambardar, whereas the powers lies with the Revenue Minister for issuing notification in the Government Gazette for General Election. In the instant case, a resolution has been submitted by inhabitant of village Jagwal that their consent has not been taken while appointing the Lambardar and the Lambardar is un-acceptable to the public of Village Jagwal. While conducting enquiry into the appointment of the Lambardar i.e. Sh. Parshotam Kumar (petitioner herein); Tehsildar Majalta issued a notification for the election of Lambardar. There is already a well defined procedure Under

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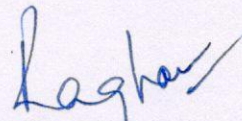
Section 12 of Lambardari Rules, 1980 which governs the procedure of removal of substitutes.

Whereas as per Section 11 of Lambardar Rules, 1980, Tehsildar has only power to appoint the Lambardar of the Village on the temporary basis subject to confirmation by the Collector; which has been done in the instant case vide order of the Deputy Commissioner (Collector) Udhampur dated 30-11-2016. Therefore, the revision petition filed by the petitioner is hereby accepted with regard to the gross violation of Lambardari Act and Rules framed thereunder for issuance of Notification of General election of Lambardar. The election notice issued by respondent no. 2 i.e. Tehsildar Majalta dated 22-04-2017 is accordingly set aside.


Interim directions, passed if any, by this Court shall stand vacated. File be consigned to record after its due compilation. Record file, if any, received from the Court below shall be sent back.

**Announced**

09-10-2021.

  
Dr. Raghav Langer, IAS,  
Divisional Commissioner,  
Jammu.

Noi. 801/Reader/Div-Com/682 Dated:-12/10/2021  
Copy of order dated 09-10-2021 alongwith record  
file containing 14+31 leaves or naths in the  
Case titled Parshottam Kumar v, Samil kumar & sons  
✓ is forwarded to the Tehsildar Majalta for  
information & necessary action pl.

  
Reader to  
Divisional Commissioner  
JAMMU