

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**C.P. No. D-136 of 2011**

**PRESENT:**

**Mr. Justice Shafi Muhammad Siddiqui**  
**Mr. Justice Khadim Hussain Tunio, JJ-**

**Petitioner(s):** Naeem Ahmed Bhanbhro.

**Respondent(s):** P.O Sindh and others,

Mr. Nisar Ahmed Bhanbhro, Advocate for Petitioner.

Mr. Zulfiqar Ali Naich, AAG along with Liaquat Ali  
 Khaskheli, D.E.O (Primary) Khairpur.

**Date of hearing:** 09.10.2018

**Date of decision:** 27.11.2018

**ORDER**

**KHADIM HUSSAIN TUNIO-** The petitioner Naeem Ahmed Bhanbhro has invoked the constitutional jurisdiction of this Court regarding his appointment as *Chowkidar* on the basis of merit with the prayers that:

1. *To declare the act of the respondents as illegal, null, void and unconstitutional.*
2. *This Court may graciously be pleased to declare that the appointments made by the Respondents without calling for interviews and fulfillment of other formalities is illegal and a criminal act.*
3. *That this Court may be pleased to declare that the appointment order of Chowkidar issued for Respondent No.4 is illegal.*
4. *That the petitioner, being the resident of the same village, son of the retired Chowkidar and a legal heir of the plot donor is entitled to be appointed as Chowkidar.*
5. *That the petitioner has knocked the doors of official Respondents but came back without success hence he has got no other alternate, prompt and efficacious remedy available with him.*

2. Relevant facts of the present petition are that the Respondents invited applications for recruitment to the posts of *Naib Qasids* and *Chowkidars* in various schools around the District through advertisement in various newspapers, the petitioner being qualified and eligible to apply for the post of *Chowkidar* against a vacancy existing in Government Primary School Bakhshan Bhanbhro and he was assured by the Respondents that he would be called for an interview and that he will fill the vacancy of the *Chowkidar*. The respondents filled all the vacancies under political influence with people who never applied for the post and never called the petitioner for an interview. The Respondent No.2 thereafter issued an appointment order as *Chowkidar* for Respondent No.4 even though he did not qualify to be appointed as a *Chowkidar*, since the basic requirement for appointment is for the applicant to be a local resident. The petitioner approached the Respondents No. 2 & 3 multiple times, in person, but they did not seem to be interested to act in accordance with law. That the petitioner has knocked on the doors of the Respondents but returned without success hence he has no alternate, prompt and efficacious remedy available with him except to invoke the jurisdiction of this Honourable Court under extra ordinary constitutional jurisdiction.

3. Learned counsel for the petitioner has argued that the petitioner being a local inhabitant of the same village and the son a retired *Chowkidar* was the most suitable candidate for the appointment; that the respondents acted under the directions of political figures and issued appointment orders without calling for interviews; that the

respondents were duty bound to issue appointment orders on the basis of merits; that the respondents were depriving the citizens of their rights; that the respondents No. 1 to 3 of issuing appointment orders to the favorites are illegal ab initio, null and void and having no sanctity in the eyes of law; that the appointment of Respondent No. 4 in the petitioner's village school was illegal, null and void; that the respondents failed to adopt legal procedure; that the petitioner being a donor in the plot is also entitled to appointment as *Chowkidar*.

4. Respondent No. 2 filed written comments and stated that for the post of *Chowkidar*, only literate people were required; that there is no government policy regarding the son quota of any Government Servant in Education Department; that walk in interviews were called through Newspapers and date was also mentioned in the same newspapers; that the appointment against the post of *Chowkidar* is not made on union council level but in the case of Aijaz Ali Qureshi, he belonged to the union council Sagiyoan and he is performing his duties regularly and also belongs to the same UC; that the appointment order was issued on total merit basis; that the appointment of Mr. Ayaz Ali was in accordance with the prescribed policy of recruitment.

5. Learned AAG argued in the same line as disclosed by Respondent No. 2.

6. We have heard the learned counsel for either parties, perused the written statements placed before us on record and have also perused the record available.

7. Without saying a *much*, it could safely be said that jobs in BPS-1 & 2 *normally* do not require any particular skill and are *non-technical*. Therefore, it is *normally* the *right* of the **local person** to have such **jobs**. Here, a reference to Rule-16 of the Sindh Civil Servants (Appointments, Promotion & Transfer) Rules, 1974, being relevant, is made hereunder :-

*“Rule-16 : Posts in BPS-1 and 2 shall ordinarily be filled on local basis”*

*Prima facie*, object behind the “Rule-16” could be nothing but that the local fellows also be provided jobs opportunity and to create **force** the word “Shall”. The term **“local basis”** needs to be given the *widest* possible meaning which could help the **‘closest local’** where the job has fallen **vacant** else, we would insist, the object of Rule-16 may fail. From another angle, the *closest local* shall always have an *edge* in reaching and performing his **non-skilled** jobs if is compared to one who has to come from *even* a little more distance. Such *idea* and *approach* only shall be an attempt to give *due* intended object to Rule-16.

8. At this juncture, we would like to divert our attention to the written statement filed by Respondent No. 2 who has filed contradictory statements in reply to paragraph No. 3 & 8. Respondent No. 2 categorically stated that *“To the post of Chowkidar only literate required.”* And he contradicted the same by stating that *“No any educational qualification was required”*. This *seems* to be an admission to **‘Rule-16’** but with an attempt to present a confusing *picture* thereof, perhaps with an attempt to justify appointment of other while *ignoring* the local.

9. Be that as it may, *prima facie*, it is not a matter of dispute that the petitioner belongs to **very** village where the vacancy of '**chowkidar**' was to be filled; no any *educational qualification* or *skill* was required therefore, it is quite surprising that as to on what basis the petitioner was not appointed as *Chowkidar*.

10. The school being located in the petitioner's neighborhood couple with binding effect of **Rule-16** speak volume that petitioner should have been given preference over other candidates particularly when no *particularly* qualification for such posts matters. Having said that, for the foregoing reasons, we allow this petition and direct the respondents to do what is necessary for the issuance of offer order to the petitioner within 60 days after the receipt of this order under intimation to this court. Non-compliance of this order may expose the respondents to the contempt of Court proceedings.

11. Before parting with this order, it would be appropriate that the affectee of this order shall be heard and thereafter appropriate order be passed, fully in accordance with law.

**J U D G E**

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