



IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 361 OF 2001

BETWEEN

Mehattar Das S/o Kalas Ram, aged about 40 years,
Resident of Village Kusmul, Tahsil Dabhra,
District Janjgir Champa.

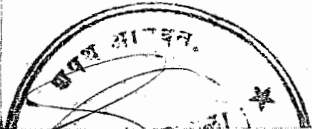
PETITIONER

A N D

1. The Board of Revenue,
Madhya Pradesh, Gwalior (MP).
2. Additional Commissioner
Bilaspur Division, Bilaspur.
3. Additional Commissioner,
Bilaspur Division, Bilaspur.
4. Sub Divisional Officer (Revenue)
Sakti, District Janjgir Champa.
5. Tahsildar Dabhra, District Janjgir Champa.

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE
CONSTITUTION OF INDIA



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HIGH COURT OF CHHATTISGARH, BILASPUR

S.B.: HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE

WRIT PETITION NO. 361 OF 2001

PETITIONER

Mahattar Das

Versus

RESPONDENT

The Board of Revenue and others

Appearance:

Mr. B.D. Guru, Advocate for the Petitioner.

Mr. Shashank Thakur, Government Advocate for the State.

ORDER

(24th December, 2014)

1. Heard Learned Counsel for the Petitioner and the State.
2. The challenge in this application is to the order dated 04.03.1997 of the Tahsildar removing the Petitioner from the post of Kotwar, affirmed by the Sub-Divisional Officer in appeal and the second appeal before the Commissioner was also dismissed on 30.05.2000.
3. Learned Counsel for the Petitioner submits that a complaint was lodged by one Goverdhan while the Tahsildar was visiting the village that the Petitioner often talked to his wife on the road and would come to his house in his absence. The Police on investigation did not find the allegation to be true. Neither the complainant nor his wife appeared before the Tahsildar during hearing despite notice. The Tahsildar wrongly

cast the burden on the Petitioner for producing the lady in question. There was no justification to hold that he had not maintained good conduct under Section 320(2) of the C.G. Land Revenue Code.

4. Learned Counsel for the State opposed the application submitting that the Court may not interfere with concurrent findings of facts by three forums.

5. The Rules framed under Section 230 of the C.G. Land Revenue Code regarding appointment, punishment and removal of Kotwars and their duties in Rule 5 provides *inter alia* for dismissal of a Kotwar if he was of a bad character was participating in any kind of undesirable activities or acting in any manner which, in the opinion of the appointing authority was not in public interest.

6. The allegation against the Petitioner is that he was talking to the wife of another on the street and would visit her house in absence of her husband. सत्यमेव जयते No other accusation has been made. It is difficult to understand and appreciate as to how the aforesaid act of the Petitioner, even if it be true, constitutes a misconduct or makes him of a bad character or that it was necessary in public interest to remove him for that reason applying the standards of common sense and prudence regarding human behaviour. Human beings are social persons and does not live in isolation. Individual perceived standards of appropriate or inappropriate behaviour must be shunned while exercising statutory

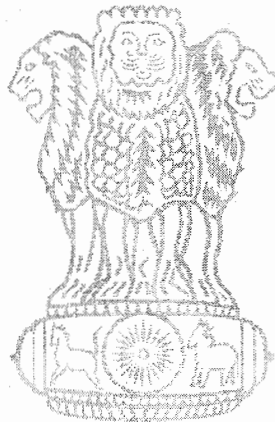
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powers in absence of which the order becomes arbitrary. The fact that the complaint could not be proved need not be considered at all.

7. The order for removal as affirmed by the First Appellate Authority and the Second Appellate Authority are consequently set aside. The Petitioner shall stand reinstated in accordance with law. He may petition, if so advised, for back wages which shall be considered appropriately after enquiry with regard to his status in the interregnum.

8. The writ petition is allowed.

Sd/-
Ag. Chief Justice



सत्यमेव जयते