

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2618 of 2012

- Balaram S/o Late Shri Dhirpal Singh, aged about 52 years R/o Village Chunchuniya, Tahsil - Mungeli, Distt. Mungeli C.G.

---- Petitioner

Versus

1. The Upper Commissioner, Bilaspur Division, Bilaspur (C.G.)
2. The Sub Divisional Officer @, Mungeli, District Mungeli (C.G.)
3. The Tahsildar, Pathariya, District Mungeli (C.G.)
4. The Nayab Tahsildar Sargaon, Tahsil Pathariya, District Mungeli (C.G.)
- 5.-A Amrika Bai, widow of late Sonuram, aged about 41 years, R/o village Chunchuniya, Tahsil Sargaon, District Mungeli (C.G.)
- 5-B Rajesh S/o Sonuram, aged about 15 years, R/o village Chunchuniya, Tahsil Sargaon, District Mungeli (C.G.)
6. Jethuram Nishad, S/o Shri Bhagela, R/o village Chunchuniya, Tahsil Mungeli, District Mungeli (C.G.)
7. Kejugir S/o Shri Kalyan Gir, R/o village Chunchuniya, Tahsil Mungeli, District Mungeli (C.G.)
8. Munit S/o Not known, R/o village Chunchuniya, Tahsil – Mungeli, District Mungeli (C.G.)

---- Respondent

For Petitioner	Mr. Jitendra Gupta, Advocate
For respondent/State	Mr. Bhaskar Pyasi, Panel Lawyer
For Respondent No.5-A & 5-B	Mr. M.K. Sinha, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

8/7/2015

Heard finally with the consent of learned counsel for the parties.

(2) In this petition under Article 227 of the Constitution of India, challenge has been thrown to the order passed by the Additional Commissioner, Bilaspur, whereby, the second appeal preferred by deceased respondent No.5, now represented by his Legal Heirs, has been allowed and the matter governing the removal/appointment of Kotwar has been remitted back to the Sub Divisional Officer (Revenue), Mungeli, for decision afresh.

(3) It appears that deceased respondent No.5 Sonuram was appointed as Kotwar of village Chunchuniya. On account of some complaint against him, he was suspended from services on 08.03.2007, against which, the respondents Nos. 6 to 8 preferred complaint against Kotwar namely Jethuram, Kejugir and Munit, preferred appeal before the Sub Divisional Officer (Revenue), Mungeli. By order dated 19.09.2007, their appeal was allowed and the Kotwar was removed from the office. Challenging the said order of the SDO, the deceased respondent No.5 preferred a second appeal before the Additional Commissioner, Bilaspur Division, Bilaspur, which stands allowed by the impugned order.

(4) Learned counsel for the petitioner submits that the petitioner is the person who was appointed as temporary Kotwar after removal of deceased – respondent No.5 as Kotwar of village Chunchuniya. He would further submit that since after removal of deceased Kotwar (respondent No.5), the petitioner was appointed as officiating Kotwar, therefore, he should have been arrayed as a party before the Additional Commissioner and the matter should have been decided after affording him opportunity of hearing.

(5) By the impugned order, the Additional Commissioner, Bilaspur

Division has remitted back the matter to the Sub Divisional Officer (Revenue), Mungeli for decision afresh in the matter, therefore, the matter has not yet been decided finally. It is informed to this Court that because of the pendency of this writ petition, Sub Divisional Officer (Revenue), Mungeli has not proceeded further in the matter. However, respondent No.5A Amrika Bai is presently working as Kotwar of the said village.

(6) Considering the entire facts situation of the case, the writ petition is disposed of with an observation that in the pending proceedings before the Sub Divisional Officer (Revenue), Mungeli, the petitioner shall also be heard. The said SDO shall decide the matter expeditiously preferably within a period of 6 months.

(7) It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent authorities shall decide the matter, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

Sd/-

Judge

(Prashant Kumar Mishra)