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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.7081 of 2009**

Tekanu Ram Panchtilak son of Pahar Singh Panchtilak, aged about 40 years, occupation Secretary, Gram Panchayat Usarwahi, District Kabirdham, Chhattisgarh

---- Petitioner**versus**

1. State of Chhattisgarh, through Secretary, Panchayat and Social Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Collector, Kabirdham, Chhattisgarh
3. Deputy Director Panchayat Social Welfare Department, Kabirdham, Chhattisgarh
4. Sub-Divisional Officer, Bodla, District Kabirdham, Chhattisgarh
5. Sarpanch Gram Panchayat Usarwahi, Tahsil Bodla, District Kabirdham
6. Uderam Mirjha, R/o Village Usarwahi, Tahsil Bodla, District Kabirdham, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Awadh Tripathi, Advocate
For Respondents No.1 to 4/State	:	Shri B. Gopa Kumar, Deputy Advocate General

Hon'ble Shri Navin Sinha, Chief Justice**Order on Board****16/10/2015**

1. Heard Learned Counsel for the Petitioner and the State.
2. Learned Counsel for the Petitioner submits that he was appointed on contract as a Panchayat Karmi on 23.5.2007. A complaint was filed by another who was not even a candidate for the post. An *ex parte* inquiry was held and the service of the Petitioner was terminated by order dated 23.11.2009. The Petitioner was not heard much less he was made a party in the complaint that was filed or given an opportunity during the inquiry. The order of termination itself states in conclusion that it was the officials who were at fault in not following instructions properly.
3. Learned Counsel for the State submits from the order dated 23.11.2009 that persons with higher marks were left out and the Petitioner was appointed. The fact itself speaks for the nature of the illegality in the appointment.

4. Having heard Learned Counsel for the parties and considering the passage of time including the interim order dated 3.12.2009 staying operation of the order dated 23.11.2009, the fact that in the meantime the Petitioner has been promoted as Secretary on 7.11.2009, the matter is appropriately remanded to the Chief Executive Officer for granting a personal hearing to the Petitioner and pass fresh appropriate orders in accordance with law.
5. The Chief Executive Officer shall not only examine if there were complaints from rival competing candidates, who had higher marks than the Petitioner, but also from the record as a matter of fact whether persons with higher marks despite their availability and presence were left out and the Petitioner was chosen with lesser marks for appointment. The submission that it was not marks alone which regulated the appointment, but certain other conditions which had to be read and applied cumulatively with marks shall also be considered by the Chief Executive Officer when he grants hearing to the Petitioner.
6. Let the Chief Executive Officer, Bodla, District Kabirdham pass fresh appropriate orders after hearing the Petitioner within a maximum period of twelve weeks from the date of receipt and/or presentation of a copy of the present order.
7. It is the obligation of the Petitioner under the directions of the Court to promptly place this order before the Chief Executive Officer to facilitate compliance of the Court order. This direction is considered essential as the writ application is not being disposed after merit adjudication, but only in terms of the order dated 3.12.2009 considering the passage of time. If the Petitioner does not present this order before the Chief Executive Officer within a maximum period of five weeks from today, the order dated 23.11.2009 shall call for no interference and the writ application shall stand dismissed and the interim order shall also stand vacated.

Sd/-
(Navin Sinha)
CHIEF JUSTICE