

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 783 of 2007**

Johit Ram S/o Mehar Ram Kavar, aged about 50 years, village Kotwar,  
Village Tilaipali, Tehsil Kharsiya, District Raigarh, Chhattisgarh.

---- **Petitioner****Versus**

1. The Board of Revenue Chhattisgarh, Bilaspur.
2. Sudama Prasad S/o Khageshwar Prasad Ganda, aged about 50 years,  
Village Tilaipali, Tehsil Kharsiya, District Raigarh, Chhattisgarh.
3. State of Chhattisgarh, through Collector, Raigarh, District Raigarh,  
Chhattisgarh.
4. Tehsildar Kharsiya/Appointing Authority, Raigarh, Chhattisgarh.

---- **Respondents**


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For Appellants : Shri S.N.Nande, Advocate.

For Respondent/State : Shri UNS Deo, Government Advocate.

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**Hon'ble Shri Navin Sinha, Chief Justice**

**Order on Board****14/12/2015**

1. Heard Learned Counsel for the Petitioners and the State.
2. Learned Counsel for the Petitioner submits that Respondent No. 2 was appointed as Kotwar on 30.6.1997 by the Tahsildar. The Petitioner preferred an appeal before the Sub Divisional Officer which was allowed on 23.9.1997 and the matter remanded for fresh decision. The Tahsildar on 23.8.1999 directed appointment of the Petitioner. Aggrieved, the Respondent No. 2 moved before the Additional Collector who allowed the appeal on 25.5.2000 but no directions for appointment of Respondent No. 2 were given. The Petitioner continued to work. The Respondent No. 2 preferred an appeal before the Board of Revenue against the order of Additional Collector who set aside the same but without any direction for appointment of Respondent No.2. The Petitioner was a better qualified candidate as he had the qualification of Class VI pass compared to Class V of Respondent No. 2.
3. The Court has considered the submissions on behalf of the Petitioner.

4. Appointment of Kotwars is regulated by Section 230 of the Chhattisgarh Land Revenue Code, 1959 (hereinafter referred to as 'the Code'). They are village watchman. The provisions of law and the rules framed therein does not provide the post of Kotwar to be inheritable by descent. The appointment has to be made strictly in accordance with Article 14 of the Constitution by equal opportunity to all eligible to be considered. The note to Rule 4 clearly provides that in the event of suspension or dismissal of a Kotwar, his family members are not to be appointed for succeeding him.

5. The Petitioner's father was the Kotwar after whose death the father of Respondent No. 2 was appointed as Kotwar. After the latter's death, Respondent No. 2 staked the claim when the Petitioner alleged that being the son of the earlier Kotwar, he had a preferential right. Both of them were therefore essentially competing for the post on the basis of descent which is violative of the provisions of the Code for appointment, as also Article 16(1) of the Constitution. The authorities have proceeded to determine the controversy on basis of the post of Kotwar being inheritable by descent.

6. Additionally, the Board of Revenue has adequately discussed that the Petitioner had not even produced documentary evidence in support of his possessing higher educational qualification than Respondent No. 2.

7. In the nature of the controversy raised by the parties treating the post of Kotwar as inheritable by descent when the appointments were to be made strictly in accordance with Article 14 of the Constitution, the Court does not find any reason to interfere.

8. The writ petition is dismissed but without prejudice to the rights of the parties to be considered afresh in accordance with law should the Respondents invite applications for the purpose.

Sd/-  
(Navin Sinha)  
**CHIEF JUSTICE**