NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3595 of 2015

- Ram Kumar @ Jhutel Gandharv S/o Late Khemsingh, Aged About 48 Years R/o Village Kritbandha, Tahsil Kawardha, District Kabirdham, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Revenue, Mahanadi Bhawan, Rakhi, New Raipur, District Raipur, (Chhattisgarh)
2. Santosh Kumar Gandharv, S/o Late Khemsingh, Aged About 47 Years R/o Village Kritbandha, Tahsil Kawardha, District Kabirdham, (Chhattisgarh)

---- Respondent

For Petitioner	Mr. S.B. Patel, Advocate
For Respondent/State	Ms. Astha Sharma, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

14/10/2015

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

(2) The petitioner and respondent No.2 are the sons of deceased – Ram Bai, who was a Kotwar of Village Kritbandha, District Kabirdham. After her death in February 2011, the petitioner and respondent No.2 applied for appointment as Kotwar of the Village The Gram Panchayat recommended the cases of both the persons and thereafter, the petitioner was appointed on the post by the order passed by the concerned Naib Tehsildar on 20.10.2011. The said appointment was challenged by respondent No.2 in appeal before the SDO (Revenue), Kawardha. The said appellate authority rejected the appeal on 29.12.2011, against which, the Second Appeal was preferred by him before the Additional Commissioner, Raipur Division.

(3) The Additional Commissioner, Raipur Division allowed the appeal

preferred by respondent No.2 vide order dated 29.06.2013 on the ground that the petitioner is only Third Standard pass, whereas, respondent No.2 is Fifth Standard pass, therefore, the said respondent being more qualified should have been appointed as Kotwar. The Appeal preferred by the petitioner before the Board of Revenue has now been dismissed by the impugned order.

(4) A perusal of the order passed by the Board of Revenue would indicate that the erstwhile State of Madhya Pradesh has issued a Circular in the year 1989 making qualification of Fifth Standard pass as desirable qualification for the post of Kotwar. Therefore, the petitioner being only Third Standard pass, is not qualified for the post.

(5) Nothing has been produced before this Court to controvert the said finding and reasoning assigned by the Board of Revenue. Even if qualification of Fifth Standard pass is not essential or desirable qualification, respondent No.2 being better qualified than the petitioner, the Additional Commissioner and the Board of Revenue have not committed any error in holding that respondent No.2 is entitled for appointment on the post of Kotwar.

(6) This Court while exercising jurisdiction under Article 227 of the Constitution of India, has no jurisdiction to unsettle the finding recorded by the subordinate Revenue Courts unless it is shown to be perverse. Having examined the facts and documents, the findings do not appear to be perverse.

(7) Accordingly, the writ petition is dismissed. Sd/-

Judge

(Prashant Kumar Mishra)

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