

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1176 of 2015

- R. B. Jaiswal S/O Late K.P. Jaiswal, Aged About 69 years R/o Wadrafnagar, Tahsil & Police Station Wadrafnagar, District Balrampur C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat & Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaaya, Capital Complex, Naya Raipur District Raipur (C.G.)
2. Chief Executive Officer, Zila Panchayat, Surguja (Ambikapur) District Surguja (C.G.)
3. Chief Executive Officer Janpad Panchayat Wadrafnagar, District Balrampur (C.G.)
4. Deputy Director Panchayat, District Balrampur (C.G.)
5. Gram Panchayat Rameshpur, Janpad Panchayat, Wadrafnagar, District Balrampur (C.G.)
6. Jai Prakash Jaiswal S/O Ram Sewak Jaiswal, Aged About 30 Years, Gram Panchayat Rameshpur, Janpad Panchayat Wadrafnagar, District Balrampur (C.G.)

---- Respondents

For Petitioner	:	Shri A.K. Yadav, Advocate
For Respondent/State	:	Shri P.K. Bhaduri, Govt. Advocate
For Respondent No.6	:	Shri Arjun Lal Singroul, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

07/04/2015

1. Petitioner is seeking a writ of quo-warranto against respondent No. 6 asking him to show cause as to under what authority he is holding the post of Secretary of Gram Panchayat Rameshpur, Janpad Panchayat Wadrafnagar, District Balrampur-Ramanujganj.
2. In course of hearing, learned counsel for the petitioner would submit that the appointment of respondent No.6 is illegal inasmuch as because the proposal sent

by the Chief Executive Officer, Janpad Panchayat, Wadrafnagar for notifying the respondent No. 6 as a Panchayat Secretary under Section 69 (1) of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 is illegal because the respondent No. 6 has been shown to have worked as Panchayat Karmi w.e.f 25/09/2007 whereas the said appointment as Panchayat Karmi is on the basis of forged papers.

3. Neither in course of argument nor in the representation filed by the petitioner vide Annexure P/3 it is alleged that the respondent No. 6 lacks eligibility criteria or essential qualification for holding the post of Panchayat Secretary. An appointment may be illegal or irregular yet it may not occasion issuance of writ of quo warranto for which it is to be pleaded and proved that the appointee lacks statutory qualification needed for appointment to a particular post.

4. In the matter of **Central Electricity Supply Utility of Odisha v. Dhobei Sahoo and others**¹. In the said case, the Supreme Court has considered its earlier judgments rendered in **The University of Mysore v. C.D. Govinda Rao & Another**², **High Court of Gujrat v. Gujrat Kishan Mazdoor Panchayat**³ and **Centre for PIL v. Union of India**⁴ and thereafter, held in para 21 as under :-

“21. From the aforesaid exposition of law it is clear as noontday that the jurisdiction of the High Court while issuing a writ of quo warranto is a limited one and can only be issued when the person holding the public office lacks the eligibility criteria or when the appointment is contrary to the statutory rules. That apart, the concept of locus standi which is strictly applicable to service jurisprudence for the purpose of canvassing the legality or correctness of the action should not be allowed to have any entry for such allowance is likely to exceed the limits of quo warranto which is impermissible. The basic purpose of a writ of quo warranto is to confer jurisdiction on the constitutional courts to see that a public office is not held by usurper without any legal authority.”

5. It is also to be seen that the petitioner is a retired Panch and Social organizer and is not competing against the respondent No. 6 for appointment as Panchayat Karmi or Panchayat Secretary, therefore, the petitioner is not aggrieved by the appointment on respondent No. 6.

6. For the foregoing, the writ petition is dismissed.

JUDGE

1 (2014) 1 SCC 161

2 AIR 1965 SC 491

3 (2003) 4 SCC 712

4 (2011) 4 SCC 1