

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 888 of 2016**

- Satish Chhugani S/o Shri K. L. Chhugani, Aged About 39 Years
R/o A-10, Gayatri Nagar, Near Jaganath Temple, Raipur, District
Raipur (Chhattisgarh).

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

1. State Of Chhattisgarh Through : Secretary, Department Of
Agriculture, Mahanadi Bhavan, Capital Complex, New Raipur P.
S. Rakhi, District Raipur (Chhattisgarh).
2. The Indira Gandhi Krishi Vishwavidyalaya, Through The
Registrar, Krishak Nagar, Raipur, District Raipur (Chhattisgarh) P I
N 492012.
3. The State Of Chhattisgarh, Through Secretary, Department Of
Tourism, Mahanadi Bhavan, Capital Complex, New Raipur, P. S.
Rakhi, District Raipur (Chhattisgarh).
4. Mr. Gore Lal Thakur, Presently Working As Superintendent
Physical Plant (SPP), Indira Gandhi Krishi Vishwavidyalaya,
Krishak Nagar, Raipur, District Raipur (Chhattisgarh) P I N
492012.

---- **Respondent**

For Petitioner : Shri Sudeep Agrawal, Advocate.
For Respondent/State : Shri PK Bhaduri, GA.
For Respondent No.2 : Shri Shashank Thakur, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****31/03/2016**

1. The petitioner has preferred this writ petition seeking issuance of writ of quo warranto to declare that respondent No.4 is holding public office of Superintendent, Physical Plant (SPP) in Indira Gandhi Krishi Vishwavidyalaya (henceforth 'the University') without any authority of law.
2. It is argued that as per the set up of Indira Gandhi Krishi Vishwavidyalaya (Sanshodhan) Adhiniyam, 2008, respondent No.4 lacks eligibility for appointment/posting as Superintendent Physical Plant because he does not belong to the Department of Water Resources/Agriculture Engineering/Public Works Department, therefore, he is not entitled to occupy the office of SPP. It is also argued that the State Government has not considered comparative rightful statutory qualification and expertise of several other candidates.
3. Per contra, learned State Counsel would argue that respondent No.4, who is working as Executive Engineer in the Chhattisgarh Tourism Board, has been sent on deputation as SPP in the University and has not been substantively appointed to the post, therefore, a writ of quo warranto would not lie.
4. Document (Annexure-P/2) issued by the State Government approving the set up of the University together with set up at Page-21 of the Writ Petition carrying entry in the remark column as Deputation (Water Resources/Agriculture Engineering/Public Works/Rural Engineering Services) is not by way of amendment in the service rules under Article 309 of the Constitution. Therefore, it is not statutory in nature. Section 21 of the Indira Gandhi Krishi Vishwavidyalaya (Sanshodhan) Adhiniyam, 1987 as amended by the Indira Gandhi Krishi Vishwavidyalaya (Sanshodhan)

Adhiniyam, 2008/2010 provides that such posts which are in the sanctioned set up of the Indira Gandhi Krishi Vishwavidyalaya are to be filled by deputation will be filled by the State Government, however, there is no corresponding amendment in the Act stipulating that the said deputation was necessarily be made by drawing the person from Water Resources/Agriculture Engineering/Public Works/Rural Engineering Services Department. Even otherwise, the impugned order (Annexure-P/1) has not made any permanent appointment on deputation but it is made effective till further orders.

5. Learned counsel for the petitioner has referred to law laid down by the Supreme Court in the matter of **B.R. Kapur Vs. State of Tamil Nadu and another** {AIR 2001 SC 3435}, particularly para-78 thereof to buttress his submission that if respondent No.4 does not fulfill the required qualification or suffers from any disqualification which debars him from holding the office of SPP, writ of quo warranto would lie.
6. The petitioner has not brought to the notice of this Court any statutory prescription laying down that an officer belonging to Water Resources/Agriculture Engineering/Public Works/Rural Engineering Services Department only can be sent on deputation as SPP. Document at page-21 of the Writ Petition is part of Government order but is not a statutory prescription. There is difference between the appointment being illegal for some other grounds and lack of eligibility qualification to hold the office.
7. In the matter of **Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo and Others** {(2014) 1 SCC 161}, the Supreme Court has held that jurisdiction of the High Court while issuing

writ of quo warranto is a limited one and can only be issued when the person holding public office lacks eligibility criteria or when the appointment is contrary to the statutory rules. It is also held therein, at para-47 that the whole thing has to be scrutinized from the point of view of power. Suitability or eligibility of a candidate for appointment to a post is within the domain of the appointing authority. The only thing that can be scrutinised by the Court is whether the appointment is contrary to the statutory provisions/rules.

8. In the matter of **High Court of Gujarat Vs. Gujarat Kishan Mazdoor Panchayat** {(2003) 4 SCC 712}, the Supreme Court has held at para-23 that a writ of quo warranto can only be issued when the appointment is contrary to the statutory rules.
9. Since no statutory rule has been placed before this Court prescribing that a person belonging to Water Resources/Agriculture Engineering/Public Works/Rural Engineering Services Department only can be sent on deputation in the SPP of University, writ petition for issuance of writ of quo warranto would not lie in the facts and circumstances of the present case.
10. The petitioner has filed documents to demonstrate that Anti Corruption Bureau, Chhattisgarh has registered an offence against respondent No.4 for having income disproportionate to his valid source of income, therefore, he is not suitable for the post.
11. However, such things are not to be considered by the Writ Court while considering the petition for issuance of writ of quo warranto as held in para-47 of **Dhobei Sahoo** case (Supra).

12. In view of the above, there being no substance in this writ petition for issuance of writ of quo warranto, which fails and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve