

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No.1675 of 2006**

Mangal Chand, S/o Shri Sadhu Satnami, Aged about ____ years,
R/o Village-Navagaon, Tahsil-Masturi, District Bilaspur (CG)

---- Petitioner

Versus

1. Board of Revenue, Chhattisgarh, Through its Member Judge, Bilaspur (CG)
2. Collector, Bilaspur (CG)
3. Sub Divisional Officer (Revenue), Bilaspur (CG)
4. Naib Tahsildar, Tahsil-Bilaspur, Bilaspur (CG)
5. Shri Heera Sai, S/o Late Shri Bundru Sai, Caste-Satnami, R/o Village-Navagaon, Tahsil-Masturi, District Bilaspur (CG)

---- Respondents

For Petitioner	:	Mr.Malay Shrivastava, Advocate
For Res.No.2 to 4	:	Mr.Arun Sao, Dy.A.G.
For Respondent No.5	:	Ms Reena Singh, Advocate on behalf of Mr.Sanjay Agrawal, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

01/11/2017

1. The petitioner was appointed as Kotwar of village Navagaon, Tahsil-Masturi, District Bilaspur. The petitioner's appointment was challenged by respondent No.5 before the Sub Divisional Officer (Revenue), Bilaspur on the ground that he being nearest relative of ex-kotwar he is entitled for preference in appointment of Kotwar as per Kotwari Rules. That was allowed by the Sub Divisional Officer (Revenue), Bilaspur by order dated 2.6.97 and the petitioner's order appointing him as Kotwar was set aside, against that order, the petitioner preferred an appeal before the Additional Commissioner, Bilaspur Division, Bilaspur, same was dismissed by the

Additional Commissioner, Bilaspur Division, Bilaspur by order dated 24.4.1998 and thereafter the petitioner preferred the revision before the Board of Revenue, which was also dismissed by the Board of Revenue by order dated 21.2.2006, against which, this writ petition under Article 226 of the Constitution of India has been filed by the petitioner herein.

- 2.** Mr. Malay Shrivastava, learned counsel appearing for the petitioner, would submit that the Sub Divisional Officer (Revenue), Bilaspur has committed illegality in setting aside the order of appointment of the petitioner as Kotwar as he was validly appointed on the post of Kotwar on the basis of resolution passed by Gram Sabha and Gram Panchayat and while affirming the order of the Sub Divisional Officer, the Additional Commissioner, Bilaspur Division, Bilaspur and the Board of Revenue have also committed illegality. Therefore, the orders passed by the Sub Divisional Officer, Bilaspur, Additional Commissioner, Bilaspur Division, Bilaspur and the Board of Revenue suffer from perversity and are liable to be set aside.
- 3.** Ms Reena Singh, learned counsel appearing for respondent No.5, would submit that the petitioner is son of ex-kotwar namely Bundru Sai and learned Sub Divisional Officer (Revenue), Bilaspur has rightly set aside the appointment of the petitioner and as such, the revision and appeal filed by the petitioner have also been dismissed by the Additional Commissioner, Bilaspur Division, Bilaspur and the Board of

Revenue.

4. I have heard learned counsel appearing for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
5. Under Section 230 of the Chhattisgarh Land Revenue Code, 1959, rules regarding appointment, punishment and removal of kotwars and their duties have been framed and that is known as Kotwari Rules. Rule 4(2) of the Kotwari Rules provides as under:-

“4(2) In making appointment of a Kotwar under Sub-rule (1) preference may be given to the near relative of the ex-Kotwar, other things being equal.”

Aforesaid rule clearly provides that in appointment of kotwar under sub-rule (1) preference may be given to the near relative of the ex-kotwar, other things being equal.

6. Learned Sub Divisional Officer (Revenue), Bilaspur while reversing the order of Naib-Tahsildar, Bilaspur dated 28.12.96 appointing the petitioner as Kotwar has clearly found that respondent No.5 is more educated than the petitioner and he being son of ex-Kotwar is entitled for preference under Rule 4(2) of the Kotwari Rules and thereby set aside the appointment of the petitioner on the post of Kotwar. The said finding is clearly based on material available on record and as per Kotwari Rules as respondent No.5 is more educated than the petitioner and is also entitled for preference under Rule 4(2) of the Kotwari Rules, which has rightly been affirmed by

the Additional Commissioner, Bilaspur Division, Bilaspur and the Board of Revenue. I do not find any illegality in the orders passed by the Sub Divisional Officer, Bilaspur, Additional Commissioner, Bilaspur Division, Bilaspur and and the Board of Revenue.

- 7.** Accordingly, the writ petition being without substance is liable to be and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-