

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 992 of 2018**

Ramkumar Tiwari, S/o Late Shri Vishram tiwari, aged about 56 years,
Working as Assistant Grade – II, Tahsil Office, Ramanujganj, District
Balrampur, Ramanujganj (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Revenue And Disaster Management Department Mahanadi Bhawan Mantralaya New Raipur Chhattisgarh.
2. The Collector And District Election Officer, District Balrampur Ramanujganj Chhattisgarh.
3. The Tahsildar, Ramanujganj District Balrampur Ramanujganj Chhattisgarh.
4. Paikas Lakra Posted As Assistant Grade- 2, Tahsil Office, Ramanujganj, District Balrampur Ramanunganj Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Rahul Mishra, Advocate.
For Respondents	:	Mr. R. N. Pusty, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****31/01/18**

1. The petitioner has filed this writ petition questioning the distribution memo dated 05.01.2018 (Annexure – P/1) issued by respondent No. 3- Tahsildar, Balrampur, alleging that though respondent No. 4 has been transferred by order dated 14.08.2017 from Tahsil Office Ramanujganj to Tahsil Office Kusmi but he has not been relieved and has been allotted the work by the Tahsildar.
2. Learned counsel appearing on behalf of the petitioner would submit that the impugned distribution memo is unsustainable and bad in law and

also the petitioner has not been paid salary since October, 2017.

3. Learned counsel appearing on behalf of State would submit that though petitioner has been transferred from the Office of Tahsildar Ramanujganj to the Office of District Election Officer, District Balrampur – Ramanujganj but he is allowed to continue at Tahsil Office Ramanujganj and as such interim order is operative in his favour by order of this Court dated 15.11.2017 passed in WPS No. 6075/2017.

4. I have heard learned counsel for the parties.

5. The distribution of work among the AG-2 and AG-3 is exclusive discretion of Tahsildar as per exigencies of service requires. The petitioner cannot question the allotment of work to any officer / respondent No. 5 as the petitioner is also continuing at present place by interim order passed by this Court.

6. The post of AG-III is simply a clerical post. It is not a public office, as such no writ of *quo-warranto* lies that too at the instance of petitioner who is also working on the post of Assistant Grade- II in the same office. He wanted shifting of respondent No. 5 for obvious reasons. Such a writ petition is nothing but sheer abuse of the process of the Court for personal gain.

7. *Sir William Wade* in his *Administrative Law – 10th Edition* at page 479 pertinently states about the nature of office qua writ of *quo warranto* as under :-

“The remedy as now defined applies to usurpation of 'any substantive office of a public nature and permanent character which is held under the Crown or which has been created by any statutory provision or royal charter'. But it must not be a case of 'merely the function or employment of a deputy or servant held at the will and pleasure of others'. Here once again we meet the difference between office and mere contractual employment. The procedure was typically used to challenge the right to such offices as those of freeman or burgess of a borough, mayor, town councilor, sheriff, justice of the peace, county court judge, chief constable or member of the General Medical Council. But the alleged usurper has to be in possession of the office and to have acted in it.”

8. The Division Bench of Nagpur High Court in **G.D. Karkarev. T. L. Shevde & Others**¹ while considering the nature of writ of quo warranto has held as under :-

“What the Court has to consider in an application for a writ of 'quo warranto' is whether there has been usurpation of an office of a public nature and on office substantive in character i.e., an office independent of title. If the office be of a very small nature the Court may refuse to grant the information.”

7. Accordingly, in view of the aforesaid submissions, I do not find any merit in the writ petition, the writ petition deserves to be and is hereby dismissed with a cost of Rs. 10,000/- payable by the petitioner to the District Legal Aid Services, Ramanujganj within ten days from the date of receipt of copy of this order.

SD/-

(Sanjay K. Agrawal)

Judge

Priyanka

1 AIR 1952 Nagpur 330