

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 3938 of 2007**

1. Yogesh @ Yogeshwar Umare S/o Sudama @ Puru Umare, Kotwar (Present), aged about 42 years, R/o Village Khilorakala, P.C. No. 13, Tahsil Dhamadha, District Durg (C.G.)
2. Srawan Gond, the then Sarpanch Complainant, S/o Atal Gond, aged about 65 years, R/o Village Khilorakala, P.C. No. 13, Tahsil Dhamadha, District Durg (C.G.)

----Petitioners**Versus**

1. Mahavir Das S/o Shri Narottam Das, Kotwar (Removed), R/o Village Khilora Kala, P.C. No. 13, Tahsil Dhamadha, District Durg (C.G.)
2. State of Chhattisgarh, through Adl. Collector, Bemetara, District Durg (C.G.)
3. Board of Revenue, Bilaspur, C.G. through Registrar, Bilaspur (C.G.)

---- Respondents

For Petitioners	:	Mr. Yashwant Tiwari, Advocate.
For Respondent No. 2/State	:	Mr. Avinash Singh, Panel Lawyer.
For Respondent No. 1	:	None.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****18/07/18**

1. By order dated 24.02.2003, the respondent No. 1 was removed from the post of Temporary Kotwar, Gram Khilorakala and the petitioner No. 1 was appointed as Permanent Kotwar of the said village by order dated 10.07.2003 by the Tahsildar, Dhamadha. The said order of the Tahsildar dated 24.02.2003 was challenged by respondent No. 1 before the Sub-Divisional Officer (Durg) which was dismissed and thereafter, affirmed by the

Additional Collector, Durg but the Board of Revenue, by its order dated 25.06.2007 (Annexure – P/7), has allowed the appeal of respondent No. 1 and failed to notice the fact that petitioner No. 1 has already been appointed as Permanent Kotwar of the Village Khilorakala. Aggrieved against that order, this writ petition has been preferred by the petitioners.

2. I have heard learned counsel for the parties, considered their rival submissions made herein-above and gone through the records with utmost circumspection.

3. Undisputedly, respondent no. 1 was appointed as Temporary Kotwar and once Permanent Kotwar is appointed, the Temporary Kotwar would cease to hold the post of Kotwar but anyhow in this case, by order dated 24.02.2003, the respondent No. 1 was removed from the said post and that order has been set aside by the Board of Revenue, the fact remains that once Permanent Kotwar is appointed, even after setting aside the order of Tahsildar by the Board of Revenue, the respondent No. 1 would not be entitled to hold the post, the petitioner is entitled to hold the post.

4. In view of the aforesaid, the order passed by the Board of Revenue (Annexure – P/7) is hereby set aside.

5. The writ petition is allowed to the extent indicated herein above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge