

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3240 of 2007

Leela Kumari, D/o. Bundram Chouhan, Aged about 26 years, R/o. Village Govindvan, P.H.No.6, Tahsil Bilaigarh, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Collector, Raipur, Chhattisgarh
2. Board of Revenue of Chhattisgarh, Through Registrar, Circuit House, Raipur, Chhattisgarh
3. Tahsildar, Bilaigarh, District Raipur, Chhattisgarh
4. Janikram, S/o. Uchitram Gada, R/o. Village Govindvan, P.H. No.6, Tahsil Bilaigarh, District Raipur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Puskar Sinha, Advocate
For State	:	Ms. Astha Shukla, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/03/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 28.02.2007 passed by the Chhattisgarh Board of Revenue. The whole issue revolves around the appointment of the petitioner as the Kotwar of Gram Panchayat, Govindvan.
2. The brief facts of the case is that the petitioner's father namely Bundram Chouhan was the Kotwar of the said village at one point of time, who resigned in the year 1999. On the resignation of the father of the petitioner, he was made the temporary Kotwar. The appointment of the petitioner as a temporary Kotwar was challenged before the Sub-Divisional Officer by the respondent No.4, which stood dismissed vide order 31.08.2001. The respondent No.4,

thereafter, challenged the order of the Sub-Divisional Officer before the Collector and the Collector allowed the objection of the respondent No.4 and thereby quashed the temporary appointment of the petitioner on the post of Kotwar. The Collector simultaneously also ordered for a fresh recruitment of the Kotwar for village Govindvan.

3. An advertisement in this regard was issued on 17.03.2006. The petitioner participated in the same and the matter was placed before the concerned Gram Panchayat in its General Body Meeting held on 19.09.2006, whereby the Gram Panchayat passed a resolution in favour of the petitioner, in as much as, there were 12 votes in favour of the petitioner and respondent No.4 received only 6 votes and based on the resolution of the Gram Panchayat, an order of appointment was issued in favour of the petitioner on 26.09.2006 and since then the petitioner is continuously working on the post of Kotwar of village Govindvan.
4. Subsequent to the appointment of the petitioner as a Kotwar, the respondent No.4 sent a letter to the Board of Revenue under Section 8 of the Chhattisgarh Land Revenue Code for exercising the power of superintendence. The said application under Section 8 was later on converted into a revision invoking the provisions of Section 50 of the Chhattisgarh Land Revenue Code and the Board of Revenue and the Commissioner, in turn, decided the application and the impugned order (Annexure P/1) was passed setting aside the appointment of the petitioner.

5. The reason assigned in the said order was that the proceedings seems to have been initiated in a haste and the order of appointment also thus was passed in haste. It is this order, which is under challenge in the present writ petition.
6. The respondent No.4 was duly noticed and he had initially entered appearance and subsequently inspite of repeated opportunities being granted, there is no representation on behalf of the respondent No.4. It appears that the respondent No.4 has lost interest in the matter and thereby is not pursuing the writ petition any further.
7. The only ground, on which the appointment of the petitioner has been set-aside by the Board of Revenue is that the entire proceedings was found by the Board of Revenue to have been conducted in haste. Perusal of the impugned order, particularly the findings part, as is given in paragraph No.7 of the said order, does not disclose any basis or reasons for the Board of Revenue to reach to the conclusion that the proceedings conducted by the Gram Panchayat as well as by the Tahsildar in issuance of the order of appointment was in haste.
8. Moreover, perusal of the record would show that the proceedings in fact has been conducted, purely in accordance with the provisions of the Land Revenue Code, in as much as after the Collector had set-aside/quashed the appointment of the petitioner as a temporary Kotwar on 14.02.2006 and ordered for initiating fresh recruitment process. Subsequently, an advertisement was duly published on

17.03.2006. The petitioner as well as the respondent No.4, both had applied for the said post and the both were also duly considered and thereafter the matter was also placed before the concerned Gram Panchayat, wherein also resolution was passed and in which the Gram Panchayat had favoured the petitioner by a substantial margin as compared to the respondent No.4.

9. In the light of the aforesaid factual backdrops, this Court finds it difficult to accept the findings of the Board of Revenue that the proceedings conducted in the appointment of the petitioner was in a hasty manner.
10. In the absence of any justifications, reasons or basis provided by the Board of Revenue in this regard, on the contrary the proceedings as has been enumerated in the preceding paragraphs and the procedure, which was followed for the appointment of Kotwar, would show that there has been no haste shown by any of the parties in the appointment of the petitioner as the Kotwar.
11. The order (Annexure P/1), therefore, does not seem to be proper, legal & justified and the same deserves to be and is accordingly set-aside/quashed.
12. The writ petition accordingly allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge