

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 198 of 2019**

*{Arising out of Order dated 14/12/2018 passed in Writ Petition(S) No. 3564 of 2010 by
the learned Single Judge}*

- Purshottam S/o Mannulal Satnami Aged About 40 Years R/o Village Chanderi, Tahsil Simga, District Raipur Chhattisgarh.

----Appellant/respondent No. 6**VERSUS**

1. Babudas S/o Bisram Aged About 45 Years R/o Gram Chanderi, Tahsil Simga, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mahanadi Bhawan, New Mantralaya, Atal Nagar, Raipur , Chhattisgarh., District : Raipur, Chhattisgarh
3. The Board Of Revenue Chhattisgarh, Bilaspur, Circuit Court Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. The Additional Collector Balodabazar, District Raipur Chattisgarh., District : Raipur, Chhattisgarh
5. The Sub Divisioanl Officer Bhatapara, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
6. Tahsildar Tahsil Simga, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

-----Petitioner**-----Respondents**

For Appellant	:	Mr. Varun Sharma, Advocate
For Respondent No. 1	:	Smt. Renu Kochar, Advocate.
For Respondent No. 2 to 6	:	Shri Avinash Singh, Panel Lawyer

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per P.R. Ramachandra Menon, Chief Justice.****16/07/2019**

1. The verdict passed by the learned Single Judge with regard to the orders passed by the District Collector and the Board of Revenue, in connection with the appointment of Kotwar granting relief to the writ petitioner who is

the 1st respondent herein, is sought to be interdicted in the appeal preferred by the person who was arrayed as the 6th respondent in the writ petition.

2. Heard Mr. Varun Sharma, learned counsel for the appellant as well as Mrs. Renu Kochar, learned counsel appearing for 1st respondent/ writ petitioner, besides the learned counsel representing the State.
3. The sequence of events reveals that the post of Kotwar in the Village Chanderi fell vacant way back in the year 2001-02, pursuant to which, an application was invited by the Tahsildar who was the competent authority to fill up the vacancy. The appellant herein as well as the 1st respondent were the applicants. It is the case of appellant that, by virtue of the better qualifications and such other aspects, the Gram Sabha passed a resolution to appoint the appellant herein and the same was forwarded to the Tahsildar. But on police verification, it was brought on record that the appellant herein was involved in some criminal cases (offence punishable under Sections 342 & 376 of I.P.C.), and in such circumstances, the Tahsildar, taking note of the relevant rules framed under Section 230 of the Chhattisgarh Land Revenue Code, decided to appoint the 1st respondent herein and an order was passed accordingly on 4-2-2002.
4. Met with the situation, the appellant sought to challenge the said order by filing an appeal before Sub Divisional Officer. The main contention was that he had already been acquitted by the criminal Court in reference to the alleged offences levelled against him and in the said circumstance, he was to be appointed in place of the other person. The case of the appellant was rejected by the Sub Divisional Officer, which made him to file an appeal before the Collector. The contention of the appellant was accepted by the Collector and the appellant was ordered to be appointed,

after setting aside the orders impugned. The above order came to be affirmed by the Board of Revenue which was sought to be challenged by filing a Writ Petition (S) No. 3564 of 2010 before this Court.

5. After hearing both the sides and after referring to the relevant provisions of law as discussed in paragraph 13, the learned Single Judge observed that, going by the mandate of the Rules even if the appellant was acquitted of the criminal charges levelled against him, it would definitely send as indication with regard to his criminal antecedents which are relevant factors to be looked into by the competent authority while considering the good character and antecedents as envisaged under Rule 2 of Section 230 of the Land Revenue Code.
6. With regard to the other relevant aspects, it was observed that the Rule provided preference to person who was related to a previous Kotwar. So as to substantiate the said fact, a witness was examined by the 1st respondent herein who had made it clear in equivocal terms that the 1st respondent herein was the grandson of a former Kotwar. This evidence was not contradicted to the satisfaction of the authorities concerned by the appellant herein and this being the position, it was all the more correct to have the extended the benefit to the writ petitioner. It was accordingly, that the orders passed by the District Collector and the Board of Revenue were set aside. The learned Single Judge observed that the order passed by the Tahsildar appointing the 1st respondent/ writ petitioner was liable to be sustained and the writ petition was allowed, from which arises the present appeal.
7. During the course of hearing, the learned counsel for the appellant sought to assert that the acquittal from the criminal case very much enables the appellant to be appointed to the post in question, insofar as, there is no

statutory prohibition in any manner. But the very nature of the post and the duty attached thereto, as put-forth by the learned counsel and as evident from the relevant rule, is to act as a 'government representative' among the general public; who hence has to be a person above board in all respects. It is in said context that Rule 2 of the Land Revenue Code framed under Section 230 of the Land Revenue Code, as considered by the learned Single Judge becomes more relevant. This rule specifically provides that-

'no person shall be eligible for the post of Kotwar, who-

(i) is, in the opinion of the appointing authority, not of good character and antecedents;

(ii) is, in the opinion of the appointing authority, unfit through infirmity of body or mind, to perform the duties of the post;'

8. The acquittal in the criminal case was for the fact that the prosecution failed to prove the offence beyond any reasonable doubt. That does not constitute a certificate or Green card to hold that the character and antecedent of the person concerned is clear. Similarly, there is no case for the appellant that acquittal in the criminal case was an "honorable acquittal" or arriving at the finding that the prosecution was malicious or fabricated in any manner.
9. In the above circumstance, the finding rendered by the learned Single Judge is beyond any challenge. Interference is declined and the appeal stands dismissed as devoid of any merit.

Sd/-
(P.R. Ramachandra Menon)
 Chief Justice

Sd/-
(Parth Prateem Sahu)
 Judge