

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2341 of 2019**

Balkrishna S/o Late Lakheshwar Kashyap, Aged About 38 Years, R/o Village - Akola, Police Station - Than Khamaria, At Present R/o Village - Dhamdha, Tahsil And Police Station - Dhamdha, District Durg, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Revenue And Disaster Management Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh
2. The Collector, District Durg, Chhattisgarh
3. The Tahsildar, Bemetara, District Bemetara, Chhattisgarh
4. Smt. Hiran @ Parvati Kashyap So Called Wife Of Late Lakheshwar Kashyap, R/o Village - Akola, Police Station - Than Khamaria, District Bemetara, Chhattisgarh
5. Lomas @ Loknath, Aged About 28 Years, So Called Son Of Lakheshwar Kashyap, R/o Village - Akola, Police Station - Than Khamaria, District Bemetara, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Kapil Maini, Advocate.
For State	:	Mr. Samir Behar, P.L

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12.04.2019**

1. The relief sought in the present writ petition is for quashment of the

order Annexure P-1 dated 07.01.2019. Vide the impugned order, the respondents State have issued an order of compassionate appointment in favour of respondent no.5.

2. The primary challenge to the impugned order by the petitioner is on the ground that it is the petitioner who is the actual legal heir of deceased Lakheshwar Kashyap who died in harness on 01.01.2017 on the post of Patwary. According to the petitioner, he is the son of the wife of the deceased employee and as such, he is the only legal heir who could have been considered for compassionate appointment. According to the petitioner, respondent no.5 is a son of another lady with whom the deceased employee had relations and therefore, respondent no.5, under no circumstance, can be said to be the legal heir of the deceased employee for the purpose of compassionate appointment.
3. The record of the writ petition shows that respondent no.5 has in fact got a succession certificate from the office of the Tahsildar in favour of the mother of respondent no.5. The said order passed by the office of the Tahsildar, Bemetara dated 30.04.2018 Annexure P-6 was subjected to challenge before this Court in WPS No. 4630 of 2018. This Court, vide order dated 18.07.2018 has already stayed the effect and operation of the order of the Tahsildar. In spite of there being a stay of the effect and operation of the order of the Tahsildar dated 30.04.2018, the authority concerned has granted compassionate appointment to respondent no.5 ignoring the claim of the petitioner vide Annexure P-1 dated 07.01.2019.
4. Rightly or wrongly respondent no.5 has been issued with an order of

appointment to which he has already acted upon and has also joined his duty, this Court is of the opinion that the appointment of respondent no.5 now would be subject to the outcome of the writ petition i.e. WPS No. 4630/2018. In case the said writ petition stands allowed in favour of the petitioner and the succession certificate issued in favour of the mother of respondent no.5 is set aside/quashed by this Court, the order of appointment issued in favour of respondent no.5 would also require reconsideration by the authority concerned who had granted appointment in favour of respondent no.5.

5. With the aforesaid direction, the present writ petition in its present form stands disposed of.

Sd/-
P. Sam Koshy
Judge