

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No.1907 of 2005**

Santuram, S/o Vikram Singh Kalar, aged about 55 years, R/o Village
Doomartola, Tahsil Mohala, District Rajnandgaon (CG) ---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Secretary, Department of Revenue DKS Bhawan, Mantralaya, Raipur (CG)
2. The Collector, District Rajnandgaon (CG)
3. SDO (Revenue) Tahsil-Mohala, District Rajnandgaon (CG)
4. Tahsildar, Tahsil- Mohala, District Rajnandgaon (CG)
5. Baliram, S/o Sagnu Gond, R/o Village-Doomartola, Tahsil-Mohala, District Rajnandgaon (CG) ---- **Respondents**

For Petitioner	:	Mr. S.S. Rajput, Advocate
For State	:	Mr. Ankur Kashayp, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****03/10/2019**

Heard.

1. This petition, under Article 226/227 of the Constitution of India, is preferred against order dated 28.02.2005 passed by the Board of Revenue, whereby, the Board of Revenue has affirmed order dated 08.07.2003 passed by the Additional Collector in the matter of enquiry and competing claim of the petitioner and respondent No.5 for appointment to the office of Patel of Village Doomartola.

2. The factual premise is in narrow compass that upon death of Patel of Village Doomartola, proceedings for filling up the office of Patel were initiated under Section 222 of the Land Revenue Code, 1959 read with Rules regarding Appointment, Renumeration, Duties, Removal and Punishment of Patels framed in exercise of powers under Section 228 of the Land Revenue Code. Pursuant to invitation, the petitioner and respondent No.5 applied for appointment as Patel. The Sub-Divisional Officer found that the petitioner was qualified having passed 5th standard, whereas, respondent No.5 was not holding any educational qualification.

His candidature was, therefore, rejected and the petitioner was appointed. Respondent No.5, aggrieved by the said order, preferred a revision before the Additional Collector. The Additional Collector remanded the matter directing the Sub-Divisional Officer to hold proper enquiry, on the premise that for the appointment to the office of Patel of Village Doomartola, law does not require any particular qualification. The Sub-Divisional Officer then held an enquiry and passed an order on 24.03.2000 directing appointment of respondent No.5. Aggrieved by this order, the petitioner went up in revision before the Additional Collector, who passed order on 31.07.2000 again remanding the matter for fresh enquiry.

3. In the second round of enquiry, the Sub-Divisional Officer (Revenue), Mohala passed an order on 29.11.2002 holding that the petitioner and respondent No.5 both being eligible, Rule require holding of election. This order was again challenged before the Additional Collector, who dismissed the revision vide order dated 08.07.2003. Aggrieved by this order, the petitioner, herein, preferred a revision before the Board of Revenue which was also dismissed, giving rise to this petition.

4. Learned counsel for the petitioner would submit that all the Revenue Courts committed patent error of law and jurisdiction in holding that respondent No.5 is eligible even though, he did not acquire any formal education. He would argue that a mere training obtained in literacy mission would not make respondent No.5 a person literate in the term and context of Rule 2(x) of the Rules relating to appointment of Patel. According to him, relevant Rule is required to be rationally construed and interpreted to mean that a person, in order to become eligible, must have received education or proper literacy training so that he can read and write because the office of Patel is a statutory office and it requires Patel to maintain various records of the Village. He is required to read and write. Unless a formal education is taken and appropriate qualification is acquired, it cannot be said that one would be able to read and write. Learned Board of Revenue, it is contended, only on the basis that respondent No.5 had received certain informal education under literacy mission of the Government, jumped to the conclusion that respondent No.5 is able to read and write and has some elementary knowledge which is not permissible in a spirit of qualifying clause 2(x) under the Rules of appointment.

5. None for respondent No.5/Baliram.

6. Learned counsel for the State would submit that this being a matter relating to appointment to the post of village of Patel and contest between the petitioner and

respondent No.5, the State has no role to play.

7. The appointment to the post of Village of Patel are governed by provision contained in Section 222 of the Land Revenue Code which reads thus :

222. Appointment of patels. -(1) Subject to rules made under section 258, the Collector may appoint for each village or group of villages one or more patels.

(2) When there are two or more patels in a village, the Collector may distribute, subject to rules made under section 258, duties of the office of patel in such manner as he may think fit

(3) Where in the Vindhya Pradesh region, a patwari has been performing the duties imposed on a patel under this Code immediately before the commencement of this Code, he shall continue to perform such duties and shall be deemed to be Patel for purposes of this Code, until a Patel is appointed under sub-section (1).

8. For the purposes of giving effect to the provision of the Act, Rules have been made in exercise of powers conferred under Section 228 of the Land Revenue Code which deal with the eligibility criteria, procedure for selection and appointment to the office of Patel of Village. The eligibility criteria is exhaustively enumerated in Rule 2 under Section 228 of the Land Revenue Code which is relevant and therefore, extracted herein below :

2. No person shall be eligible for the office of patel, if he-

(i) is less than 21 years;

(ii) is not recorded as a Bhoomiswami in the Land Records of the village concerned;

(iii) in the case of an appointment of a patel-

(a) For a village, is not residing permanently if it is an inhabited village.

(b) For a group of villages, is not residing permanently in one of such villages;

(iv) is an undischarged insolvent;

(v) is unfit by reason of his financial position'

(vi) has been removed from the Office of Patel previously;

(vii) is convicted of an offence involving moral turpitude or an offence involving activities subversive of the State, such conviction not having been reversed in

appeal or revision;

(viii) is of bad character;

(ix) is mentally or physically unfit to perform the duties of the Patel effectively;

(x) cannot read and write or is incapable of maintaining the record which may have to be maintained in the course of the performance of the duties of the Patel; or

(xi) is or has been a willful defaulter in the payment of land revenue or other public duties:

Provided that the [Commissioner]/[Director of Land Records] may, for special reasons, exempt any individual or class of persons in any particular area from the operation of clause (x) above.

9. As far as eligibility regarding qualification is concerned, Rule 2(x) provides that no person shall be eligible for the office of Patel if he cannot read and write or is incapable of maintaining records which may have to be maintained in the course of performance of the duties of Patel. Therefore, *per se*, the Rule does not prescribe any particular educational qualification. However, keeping in view the requirement of duties which a Patel is required to perform, the Rules explicitly provide that no person shall be eligible for the office of Patel, if he cannot read and write or is incapable of maintaining records which may have to be maintained in the course of performance of the duties of Patel of a village.

10. On a rational and logical interpretation of the aforesaid statutory provision with regard to eligibility, it has to be held that even if a person has not received a formal education in the sense that he has not attended any educational institution and passed schooling, nevertheless, if it can be established that under informal education system, he has acquired literacy and is able to read and write and maintain records, he would certainly be eligible in terms of the provision of the Rule.

11. If the order passed by the Board of Revenue examined in the light of the aforesaid requirement of Rules, it is found that while the Board of Revenue has taken into consideration some irrelevant aspect, it has been clearly recorded by the Board of Revenue that the respondent No.5 had acquired literacy under the literacy mission of the Government and it has been clearly written in the order that he can read and write. If that be so, respondent No.5 even if is not possessed of any certificate of passing any formal education, would satisfy the requirement of rule and cannot be held to be ineligible. True, it is that in addition to this, many other aspects have also been taken into consideration by the Board of Revenue, but

consideration on the aspect as to whether respondent No.5 could read or write is based on relevant material available on record that respondent No.5 had received informal education under literacy mission and that he can read and write. This Court, exercising its jurisdiction either for issuance of writ of certiorari or in exercise of supervisory jurisdiction, would not interfere with the said order unless it is found that the order suffers from patent illegality or any jurisdictional flaw. As the Board of Revenue has arrived at conclusion based on material which are relevant, further enquiry would not be permissible in these proceedings.

12. It is found that the learned Revenue authorities, after having formed an opinion with regard to the eligibility of the petitioner and fifth respondent have taken recourse to the process of election, which is the course of action required to be adopted under Rule 8 of the Rules of appointment. For that reason, also this Court does not find any ground to interfere.

13. In the result, I do not find any merit in the petition and is therefore dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge