

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 212 of 2020

Nohar Ram, S/o. Shri Prabhu Ram, Aged About 56 Years, R/o. Village Jabudwahi, Post Bital, Tehsil Daundi, District Balod Chhattisgarh.

---- Petitioner

Versus

1. Executive Engineer, Public Works Department, Balod, In Front of District Hospital, Balod, District Balod Chhattisgarh.
2. State of Chhattisgarh, Through – Collector, Balod, District Balod Chhattisgarh.

-----Respondents

For Petitioner	: Mr. Prasoon Agrawal, Advocate
For Respondent/State No.2	: Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/02/2020

1. This petition has been brought praying for specific direction to the Execution Court.
2. It is submitted that the petitioner has decree in his favour in Civil Suit No.26-A/2017 granted on 28.09.2018, by which the respondents have been ordered to make correction in the date of birth entered in the record of the respondents' office, which was previously recorded as 05.02.1958. The direction has been issued to enter the actual date of birth of the petitioner as presented by him, which is 08.06.1963.
3. It is submitted that after passing of the judgment and decree, the petitioner, who is employed under the respondent No.1 has made

representation to the respondent department, but no consideration has been given to that and on the contrary a memo has been issued vide Annexure P-4 on 04.12.2019 informing the petitioner that he will retire on 29.02.2020. The petitioner then filed the executing proceeding on 20.01.2020, in which the respondent has appeared but he has simply lingering on the proceeding by praying for time to file reply. It is submitted that the decree in favour of the petitioner would become infructuous, if he retires on 29.02.2020, therefore, the specific direction be issued to the learned Execution Court to expedite the execution proceeding and conclude the same before 29.02.2020.

4. State counsel appearing for the respondent No.2 opposes the petition and the submission made in this respect.
5. Considered on the submissions made by the learned counsel for the both the parties.
6. As it is informed by the counsel for the petitioner that the judgment and decree dated 28.09.2018 has been challenged by the respondents side, but there is no stay order in the same, therefore, the decree is executable for the present. Apart from that on perusal of the relief granted in the decree, it is found that it is a mandate, which has to be complied with by the respondent side and there appears to be no need for filing any reply. The only reply could have been filed by the respondent that they have challenged the judgment and decree and there is some stay order, which has not been done so far, therefore, I am of this view

that the Execution Court can be directed to expedite the proceeding of the execution. Therefore, this petition is disposed of at motion stage. The learned Execution Court is directed to expedite the execution proceeding and issue direction to the respondents side according to the mandate given in the decree, to comply with the same before 29.02.2020.

7. Accordingly, this petition is disposed off.

Certified copy today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram