

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4603 of 2019

Awadh Tripathi S/o Shri R.P. Tripathi Aged About 58 Years Advocate, R/o
Shashwat Green Park Colony, Raipur Road, Bilaspur 495001.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Law And
Legislative Naya Mantralaya, Atal Nagar, Mahandi Bhawan, Nava Raipur
492002 Chhattisgarh.
2. The District And Session Judge Bilaspur 495001, Chhattisgarh.
3. Shri Bharat Lal Loniya Additional Government Advocate Government Of
Chhattisgarh, Bilaspur District Bilaspur, 495001.

---- Respondents

For petitioner – Shri Rajesh Kumar Kesharwani, Advocate.

For State – Shri Gagan Tiwari, Dy.G.A.

For respondent No.3 - Shri U.N.S. Deo, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

17/02/2021

Heard.

1. Instant petition has been filed for the following reliefs:-

“(i) That, the Hon'ble Court be pleased to accept the writ petition and pleased
to decide the petitioner's grievance.

(ii) That, the Hon'ble Court be pleased to quash and set aside the
Appointment of Respondent No.3 (Shri Bharat Lal Loniya) as Additional
Government Advocate of Bilaspur District by way of issuance of writ of quo-
warranto.

(iii) Any other Order or Directions deem fit and proper may also be passed in
the facts and situation of the case and in the interest of justice.”
2. Learned counsel submits that in view of the reply filed by the State at para
14 to 17 it is expected that the State would decide the issue in proper perspective.
3. Learned counsel for the respondent No.3 would submit that in this case

appointment of respondent No.3 was under Section 24 (4) of the Cr.P.C., therefore the appointment would be governed by a different set of facts.

4. Having considered the submission and after going through the reply of the State, para 14 to 17 of the reply of the State which are relevant to the issue are quoted herein below:-

“14. Hence, in view of the aforementioned submissions, it is respectfully submitted that, the answering respondents (State) are bound by the directions of this Hon'ble Court and if Court directs, the answering respondents would re-consider the appointment of Respondent No.3 in light of the directions passed by this Hon'ble Court in the matter of “Uttam Kumar Pandey Vs. State of Chhattisgarh & ors..”

15. That, it is humbly submitted that the procedure that is being adopted in recruitment of Law Officers in the State of Chhattisgarh is a transparent, fair and objective process, the law officers are conducting the cases not only on behalf of the State but they are acting also as the agent of the government, they owe duty to the public at large also. Integrity, capability, honesty, efficiency and legal equipment of the lawyer is and should be the primary criteria considered for giving primacy to the appointment of the law officer, thereby realistic assessment of the requirement of the law officer are being done.

16. That, the State is bound to comply the order passed by the Hon'ble Apex Court in the case of “State of Punjab and others Vs. Brijeshwar Singh Chahal and others” reported in 2016(6) SCC 1.

17. Thus, it is submitted that being a welfare State, the answering respondents is saddled with the liabilities & duties to take all possible measures in order to avoid any irregularities in the appointment of Law Officers for the sake of public interest and to appoint such Law Officers who may duly defend the interest of the State before the Court so that the loss of

public exchequer may be escaped. Hence, it is submitted that, all due care is taken to appoint Law Officers and all possible efforts will also be made with due diligence in appointment of the Law Officers on behalf of the State.”

5. In view of the submission made by the State, the State who has appointed the respondent No.3 is directed to consider the appointment of respondent No.3 taking into consideration the particular facts involved in a particular case of petitioner. Since State has contended it would reconsider the appointment, the Court would not observe any opinion on merit specially in view of the submission made in para 14 to 17 above.

6. Accordingly, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE