CGHC010403682022 2026:CGHC:45193

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

VISHAKHA BEOHAR

Digitally signed by VISHAKHA BEOHAR

WPC No. 5602 of 2022

Order Reserved on 20.08.2026

Order Delivered on 27.10.2026

1 - Vivek Das Mongri S/o Late Kalyan Das Mongri Aged About 34 Years Caste - Panika, R/o Village Kusma, Post Bamhin, Tahsil Kondagaon, District Kondagaon Chhattisgarh

... Petitioner(s)

versus

1 - Jageshwar Das S/o Shri Pitambar Das, Caste Panika, R/o Village Kusma, Post Bamhin, Tahsil Kondagaon, District Kondagaon Chhattisgarh

2 - State Of Chhattisgarh Through - The Collector, Kondagaon, District Kondagaon Chhattisgarh

3 - Commissioner, Bastar Division, Jagdalpur, District Bastar Chhattisgarh

4 - Sub Divisional Officer (Revenue) Kondagaon, Tahsil And District Kondagaon,Chhattisgarh

5 - Tahsildar Kondagaon, District Kondagaon Chhattisgarh

... Respondents

(Cause-title taken from the Case Information System)

For Petitioner :- Mr. Sourabh Sharma, Advocate

For Respondent No. 1:- Mr. Pravin Kumar Tulsyan, Advocate

For State/Respondents No. 2 to 5:- Mr. Abhishek Gupta, P.L.

SB-Hon'ble Shri Justice Amitendra Kishore Prasad

CAV Order

1. The instant petition is directed against the order dated 07.11.2022 passed by the Chhattisgarh Board of Revenue, Bilaspur (Circuit Court, Jagdalpur), in Case No. R.N.20/A-56/06/2021, Village Kusma, Tahsil and District Kondagaon (C.G.), in the matter of *Shri Jageshwar Das vs. Shri Vivek Das Mongri and another*. By way of the instant petition, the petitioner has called in question the legality, validity and propriety of the aforesaid order, whereby the Chhattisgarh Board of Revenue has decided the proceedings against the petitioner.

2. Facts of the case are that the petitioner's father, namely, late Kalyan Das Mongri, was serving as the Kotwar of Village Kusma, Tahsil Kondagaon, and the Kotwari service land was recorded in his name. After his death, since the petitioner was a minor, his uncle, namely, Pitamber Das, who is the father of respondent No.1, was appointed as the Village Kotwar. It is the case of the petitioner that Pitamber Das subsequently tendered his resignation from the post of Village Kotwar on the ground of his ill health. Thereafter, in Revenue Case No.02/A-56/2019-20, the Tahsildar, Kondagaon, vide order

dated 15.01.2020, appointed respondent No.1, Jageshwar Das, as Village Kotwar, primarily on the basis of a resolution purportedly passed by the Gram Panchayat recommending his appointment. Being aggrieved by the aforesaid order, the petitioner preferred an appeal before the Sub-Divisional Officer (Revenue), Kondagaon. The learned SDO (Revenue), in Revenue Case No.04/A-56/2019-20, vide order dated 28.05.2020, allowed the appeal and set aside the appointment of respondent No.1. While doing so, the learned SDO (Revenue) recorded a categorical finding that the resolution relied upon for appointment of respondent No.1 had not been passed in accordance with the prescribed rules and procedure. It was further found that the alleged resolution had been prepared in the absence of the Panchas, Sarpanch and Secretary of the Gram Panchayat and that no publication had been made inviting applications/objections for appointment to the post of Village Kotwar. Respondent No.1, being aggrieved by the aforesaid order, preferred an appeal before the Commissioner, Bastar Division, Jagdalpur. The learned Commissioner, vide order dated 13.07.2021, dismissed the appeal and affirmed the order passed by the SDO (Revenue). The Commissioner further directed the Tahsildar, Kondagaon, to initiate fresh proceedings for

appointment of Village Kotwar in accordance with the prescribed rules and procedure within a period of three months. Against the order passed by the Commissioner, respondent No.1 preferred a revision before the Chhattisgarh Board of Revenue, Bilaspur (Circuit Court, Jagdalpur). The learned Member of the Board of Revenue, vide impugned order dated 07.11.2022, set aside the order passed by the Commissioner and restored the order dated 15.01.2020 passed by the Tahsildar, thereby upholding the appointment of respondent No.1 as Village Kotwar. The petitioner has called in question the aforesaid order passed by the Board of Revenue, principally contending that the appointment of respondent No.1 was made without there being a valid resolution of the Gram Panchayat and without convening a duly constituted meeting of the Gram Sabha. According to the petitioner, several villagers and Panchas had specifically objected to the alleged resolution and had stated that they were not aware of any resignation having been tendered by Pitamber Das on account of his health condition. It has further been contended that no notice or publication inviting applications or objections for appointment of Village Kotwar was issued by the Tahsildar.

3. The petitioner has further contended that the alleged Gram Sabha meeting, stated to have been attended by about 230 villagers, was never convened and that the alleged resolution was prepared in the absence of the Panchas, Village Secretary and Sarpanch. According to the petitioner, these material objections were duly raised before the revenue authorities but have not been properly considered by the Board of Revenue. It is also the case of the petitioner that Section 230 of the Chhattisgarh Land Revenue Code, 1959 and the rules framed thereunder prescribe the procedure for appointment of a Village Kotwar. The petitioner submits that the Board of Revenue has failed to examine whether the mandatory procedure prescribed under the said provision was duly followed before making the appointment of respondent No.1. It is contended that the Board of Revenue merely proceeded on the basis that the resolution could not be doubted, without examining the objections regarding the very convening of the Gram Sabha and the validity of the resolution allegedly passed therein. The petitioner further submits that the Kotwari service land continues to stand recorded in the name of his father, late Kalyan Das Mongri, who was the original Village Kotwar. It is contended that, upon attaining majority, the petitioner is entitled to consideration for

appointment to the post of Village Kotwar in accordance with law, particularly when a vacancy arises. According to the petitioner, the Tahsildar failed to record any finding as to when the alleged Gram Sabha was convened, whether the resolution was passed in accordance with the prescribed procedure, and whether the villagers were duly informed about the proposed appointment. On these grounds, the petitioner submits that the impugned order passed by the Board of Revenue is perverse, contrary to the statutory procedure and liable to be set aside.

4. Following reliefs have been prayed in this petition:-

> *"10.1 That, this Hon'ble Court may kindly be pleased to issue a writ/writs, order/orders quashing the impugned order dated 07/11/2022 passed by the Board of Revenue (Annexure-P/1) and to restore the order dated 13/07/2021 passed by the Commissioner Bastar Division (Jagdalpur), whereby it has been directed to initiate fresh proceeding for appointment of village Kotwar in accordance with rules and procedure prescribed within a period of three months.*
>
> *10.2 Any other relief which may deems fit may also be awarded along with cost of the petition."*

5. Mr. Sourabh Sharma, Learned counsel for the petitioner would submit that the impugned order passed by the Board of Revenue is contrary to the material available on record and the statutory scheme governing appointment to the post of Village Kotwar. It is submitted that the private respondent No.1, namely Jageshwar Das, is the son of Pitambar Das, who was serving as Kotwar of Village Kusma. Due to illness, Pitambar Das tendered his resignation from the post, which was accepted by the Tahsildar. However, while appointing respondent No.1 vide order dated 15.01.2020, the Tahsildar failed to record any finding as to the date on which Pitambar Das tendered his resignation or the date on which the same was accepted, and consequently failed to ascertain the actual date on which the post of Kotwar fell vacant. It is further submitted that under Section 230 of the Chhattisgarh Land Revenue Code, 1959 and the Rules framed thereunder, appointment to the post of Village Kotwar is required to be made strictly in accordance with the prescribed procedure. The preference, if any, available to a near relative of an erstwhile Kotwar does not confer upon such person any vested right to appointment. Learned counsel places reliance upon the judgment of this Court in *Pardeshi Ram Vs. State of Chhattisgarh and Others*, W.P.(S) No.7497 of 2023, wherein it

has been held that appointment of Kotwar is governed by the statutory Rules and that the preference to a near relative of an ex-Kotwar under Rule 4(2) is discretionary and does not create a vested right. Learned counsel would further submit that the entire selection process in the present case is vitiated from its inception. The alleged resolution of the Gram Panchayat dated 05.10.2019, relied upon in favour of respondent No.1, was passed even prior to issuance of the alleged public notice dated 13.12.2019 and prior to submission of the application by respondent No.1 dated 20.12.2019. Thus, even before applications were invited from eligible candidates, the Gram Panchayat had allegedly resolved to appoint respondent No.1 as Kotwar. Such a procedure, according to learned counsel, clearly demonstrates that the subsequent advertisement and selection process were merely an empty formality.

6. It is next submitted that the alleged public notice dated 13.12.2019 was not duly published in accordance with law. Respondent No.1 himself admitted during his statement before the SDO (Revenue) that he had affixed one copy of the advertisement on the notice board of the Gram Panchayat and had subsequently produced another copy before the Court of the Tahsildar. No proper publication in a newspaper

was made and, significantly, respondent No.1 was the sole applicant in the entire selection process. Thus, the very person who ultimately came to be appointed had himself affixed the alleged notice inviting applications, which renders the selection process highly doubtful and lacking in transparency. Learned counsel would further submit that the learned SDO (Revenue), after recording the statements of as many as 21 witnesses, including the petitioner and respondent No.1, categorically found that no valid resolution of the Gram Sabha/Gram Panchayat had been passed in accordance with the prescribed procedure and that the alleged advertisement had not been duly affixed/published. The SDO, therefore, rightly set aside the appointment of respondent No.1 vide order dated 28.05.2020. The said finding was thereafter affirmed by the Commissioner, Bastar Division, Jagdalpur, vide order dated 13.07.2021, who specifically observed that the publication for appointment to the post of Kotwar was not in accordance with law and directed the Tahsildar to initiate fresh proceedings by following due process. It is also submitted that the aforesaid findings of the SDO and the Commissioner stand further corroborated by the material subsequently brought on record by the petitioner. Along with the rejoinder, the petitioner has

placed affidavits of about 120 villagers stating that they were not present in the alleged meeting of the Gram Sabha and that the signatures attributed to them on the alleged resolution were not genuine. It is submitted that this material goes to the root of the validity of the alleged resolution dated 05.10.2019 and could not have been brushed aside while examining the legality of the appointment of respondent No.1.

7. Learned counsel would lastly submit that the Board of Revenue, while setting aside the well-reasoned orders passed by the SDO (Revenue) and the Commissioner and restoring the order of the Tahsildar, failed to properly appreciate the aforesaid material circumstances. The Board of Revenue has failed to consider whether the alleged Gram Sabha meeting was actually convened, whether the resolution dated 05.10.2019 was validly passed, whether the public notice was duly published, and whether all eligible persons residing in the village were afforded a fair opportunity to apply for the post. It is submitted that the appointment of respondent No.1 cannot be sustained merely on the basis of his relationship with the erstwhile Kotwar, as such relationship does not confer any vested right of appointment. Accordingly, learned counsel for the petitioner submits that the order dated 07.11.2022 passed by the Board of Revenue as well as the

order dated 15.01.2020 passed by the Tahsildar deserve to be set aside and the orders dated 28.05.2020 passed by the SDO (Revenue) and 13.07.2021 passed by the Commissioner deserve to be restored. It is further prayed that the competent authority be directed to initiate a fresh selection process for appointment to the post of Village Kotwar in accordance with Section 230 of the Chhattisgarh Land Revenue Code, 1959 and the Rules framed thereunder, after following due process and affording a fair and equal opportunity to all eligible candidates, including the petitioner.

8. Mr. Pravin Kumar Tulsyan, learned counsel appearing for respondent No.1 would oppose the writ petition and submit that the petitioner has failed to demonstrate any jurisdictional error, illegality, perversity or procedural impropriety in the impugned order dated 07.11.2022 passed by the Board of Revenue. It is submitted that the Board of Revenue, upon consideration of the material available on record, has rightly exercised its revisional jurisdiction and restored the order dated 15.01.2020 passed by the Tahsildar appointing respondent No.1 as Village Kotwar. Learned counsel would further submit that the allegations subsequently raised regarding the alleged absence of the Gram Panchayat members from the meeting and the validity of the resolution,

is nothing but an afterthought. According to learned counsel, at the relevant stage no member of the Gram Panchayat had disputed his or her presence in the meeting or questioned the resolution passed therein. The subsequent affidavits relied upon by the petitioner, therefore, cannot be relied upon to unsettle the appointment which was duly considered and upheld by the Board of Revenue. It is lastly submitted that the petitioner has failed to establish any legally enforceable right to seek appointment to the post of Village Kotwar and, in the absence of any demonstrated illegality in the appointment of respondent No.1, the relief sought by the petitioner for setting aside the impugned order and directing a fresh selection process cannot be granted. Accordingly, learned counsel for respondent No.1 submits that the writ petition is devoid of merit and deserves to be dismissed with costs.

9. Mr. Abhishek Gupta, learned State counsel, opposing the writ petition, would submit that the grievance raised by the petitioner is wholly misplaced and that the petitioner has failed to make out any ground warranting interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. It is submitted that the petitioner has neither established any jurisdictional error nor pointed out any illegality, perversity or procedural impropriety

in the impugned order dated 07.11.2022 passed by the Board of Revenue. Learned State counsel would submit that the petitioner's father, late Kalyan Das Mongri, was serving as Kotwar of Village Kusma, Tahsil Kondagaon. At the time of his death, the petitioner was a minor and, therefore, Pitamber Das, the father of respondent No.1, was appointed as Village Kotwar. Subsequently, Pitamber Das resigned from the post on account of his ill health. Upon the post falling vacant, the competent revenue authority initiated proceedings for appointment of a Village Kotwar. It is submitted that the Tahsildar, Kondagaon, in Revenue Case No.02/A-56/2019-20, issued a public notice dated 13.12.2019 inviting applications for appointment to the vacant post of Village Kotwar. It is further submitted that the Gram Sabha had already passed a resolution dated 05.10.2019 recommending the name of respondent No.1, Jageshwar Das, for appointment to the post. On consideration of the application submitted by respondent No.1 and the aforesaid resolution, the Tahsildar, vide order dated 15.01.2020, appointed respondent No.1 as Village Kotwar.

10. Learned State counsel would further submit that the petitioner challenged the aforesaid appointment before the SDO (Revenue), Kondagaon, who, vide order dated

28.05.2020, set aside the appointment of respondent No.1. Against the said order, respondent No.1 preferred an appeal before the Commissioner, Bastar Division, Jagdalpur, which was dismissed vide order dated 13.07.2021. Thereafter, respondent No.1 preferred a revision before the Board of Revenue and, upon consideration of the entire material available on record, the Board of Revenue, vide impugned order dated 07.11.2022, set aside the order of the Commissioner and restored the order dated 15.01.2020 passed by the Tahsildar. Learned State counsel would submit that the appointment of respondent No.1 was made in accordance with Section 230 of the Chhattisgarh Land Revenue Code, 1959 and the Rules framed thereunder. It is contended that the statutory scheme gives due consideration to a person who is the nearest relative of the erstwhile Kotwar. Respondent No.1, being the son of Pitamber Das, the erstwhile Kotwar, was therefore entitled to the preference contemplated under the applicable rules. However, such preference was considered by the competent authority only in accordance with the prescribed procedure and after issuance of the public notice. It is further submitted that the Board of Revenue, after examining the material on record, rightly found no sufficient ground to doubt the resolution of the Gram

Sabha and the proceedings undertaken by the Tahsildar. According to learned State counsel, the allegation that the Gram Sabha meeting was not convened or that the resolution was fabricated is not supported by reliable material and the subsequent objections raised by the petitioner are merely an afterthought. The State relies upon the Gram Sabha Register dated 05.10.2019 and the public notice dated 13.12.2019, which form part of the record, in support of the appointment.

11. Learned State counsel would further submit that the petitioner has failed to demonstrate any vested or indefeasible right to appointment as Village Kotwar merely on the ground that his father was the erstwhile Kotwar or that he was a minor at the time of his father's death. The petitioner, at best, could claim consideration in accordance with the applicable rules, but could not claim appointment as a matter of right. It is, therefore, submitted that the petitioner has failed to make out any ground for interference with the order dated 07.11.2022. Accordingly, learned State counsel submits that the writ petition is devoid of merit and substance and deserves to be dismissed.

12. I have heard learned counsel appearing for the respective parties and have also carefully gone through the material available on record, including the orders passed by the

Tahsildar, the Sub-Divisional Officer (Revenue), the Commissioner, Bastar Division, Jagdalpur, and the Chhattisgarh Board of Revenue. I have also considered the rival submissions advanced on behalf of the petitioner as well as respondent No.1 and the State authorities.

13. The undisputed factual position emerging from the record is that the post of Village Kotwar of Village Kusma fell vacant consequent upon the resignation of Pitamber Das, who was admittedly serving as the Village Kotwar. Thereafter, proceedings were initiated before the Tahsildar, Kondagaon for filling up the said post. The Tahsildar, in exercise of the power conferred under Section 230 of the Chhattisgarh Land Revenue Code, 1959 and the Rules framed thereunder, passed the order dated 15.01.2020 appointing respondent No.1, Jageshwar Das, as Village Kotwar. The said order was thereafter subjected to the statutory appellate scrutiny before the SDO (Revenue), Kondagaon and the Commissioner, Bastar Division, Jagdalpur, and ultimately the matter reached the Board of Revenue in revision.

14. It is equally not in dispute that the learned SDO (Revenue), while considering the appeal preferred by the petitioner, set aside the order of appointment passed by the Tahsildar and thereafter the learned Commissioner affirmed the said order

of the SDO (Revenue) and directed initiation of fresh proceedings for appointment of Village Kotwar in accordance with the prescribed rules and procedure. However, the Board of Revenue, while exercising its revisional jurisdiction, examined the matter and, vide the impugned order dated 07.11.2022, set aside the order passed by the Commissioner and restored the original order dated 15.01.2020 passed by the Tahsildar.

15. The principal question which, therefore, arises for consideration in the present writ petition is as to whether the view taken by the Board of Revenue, after examining the material available on record, suffers from such jurisdictional error, patent illegality, perversity or procedural impropriety as would warrant interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

16. In this regard, it is necessary to bear in mind that the appointment of Village Kotwar is governed by Section 230 of the Chhattisgarh Land Revenue Code, 1959 and the Rules framed thereunder. The Tahsildar is the competent authority to undertake the process of appointment, and the power is required to be exercised in accordance with the statutory scheme. At the same time, the mere fact that the order of the

Tahsildar has subsequently been interfered with by the SDO (Revenue) and the Commissioner would not, by itself, render the view taken by the Board of Revenue illegal. The Board, being the revisional authority, was competent to examine the correctness of the orders passed by the subordinate revenue authorities and to arrive at its own conclusion on the basis of the material forming part of the record.

17. The petitioner has principally questioned the validity of the resolution dated 05.10.2019, allegedly passed by the Gram Panchayat/Gram Sabha, and has contended that the said resolution was not passed in a duly convened meeting and that the Panchas, Sarpanch and Secretary were not present. It has also been contended that the alleged public notice dated 13.12.2019 was not duly published and that respondent No.1 himself had affixed one copy thereof on the notice board of the Gram Panchayat. These aspects were undoubtedly considered by the SDO (Revenue), who, after recording the statements of several witnesses, took a view adverse to respondent No.1. The Commissioner also concurred with the said view.

18. However, the matter did not rest at that stage. The entire controversy was carried before the Board of Revenue in revision. The Board of Revenue, after considering the

material available on record, did not find sufficient justification to disbelieve the resolution relied upon by the Tahsildar or to hold that the proceedings undertaken for appointment of respondent No.1 were so fundamentally defective as to render the appointment void. The Board, upon consideration of the rival claims and the material produced by the parties, took a view that the appointment made by the Tahsildar could not be interfered with merely on the basis of the objections raised by the petitioner.

19. This Court, while exercising jurisdiction under Article 226 of the Constitution, would interfere with the order of the statutory revisional authority only where, despite having considered the relevant material, the authority has arrived at a conclusion that is perverse, based on no evidence, contrary to the statutory provisions, or suffers from a manifest jurisdictional or procedural error. The petitioner has to demonstrate such an error in the impugned order; mere existence of another possible view or the fact that the SDO and the Commissioner had earlier taken a different view would not, by itself, furnish sufficient ground for interference.

20. On consideration of the impugned order, this Court finds that the Board of Revenue has duly considered the relevant aspects concerning the appointment of respondent No.1. The

Board has taken into consideration the resolution relied upon in support of the appointment and the proceedings undertaken by the Tahsildar pursuant thereto. The Board has thereafter recorded its conclusion that the appointment of respondent No.1 as Village Kotwar was not liable to be disturbed. Such conclusion cannot be said to be wholly unsupported by the record or to be one which no reasonable authority could have arrived at.

21. Much emphasis has been placed by learned counsel for the petitioner upon the fact that the alleged resolution dated 05.10.2019 was passed prior to the issuance of the public notice dated 13.12.2019 and prior to the application submitted by respondent No.1 on 20.12.2019. The chronology of these events has certainly been relied upon by the petitioner to contend that the selection was predetermined. However, the mere fact that a recommendation/resolution in favour of respondent No.1 was made prior to the subsequent proceedings before the Tahsildar cannot, in the facts of the present case, by itself establish that the statutory authority acted without jurisdiction or that the appointment was necessarily void. The legality and effect of the said resolution have been examined by the competent revenue authorities,

and the Board of Revenue, upon such examination, has declined to accept the challenge raised by the petitioner.

22. Similarly, the contention regarding the alleged irregularity in publication of the notice cannot be examined in isolation from the entire proceedings. The record demonstrates that the Tahsildar did undertake proceedings for filling up the vacant post and that a public notice dated 13.12.2019 was placed on record. The petitioner has relied upon the statement of respondent No.1 to contend that he himself had affixed one copy of the notice. Even assuming the said circumstance to be correct, such circumstance, by itself, does not establish that the entire proceedings undertaken by the competent authority were without jurisdiction or that the appointment was liable to be annulled in exercise of writ jurisdiction, particularly when the Board of Revenue, upon consideration of the material, has declined to accept the challenge to the appointment.

23. The petitioner has also relied upon the affidavits of a large number of villagers filed along with the rejoinder and has contended that the alleged meeting of the Gram Sabha was never convened and that the signatures appearing on the alleged resolution were not genuine. These allegations are seriously disputed by the contesting respondent and the

State. Such disputed allegations, particularly when they relate to the genuineness of signatures, presence of villagers and the manner in which a meeting was convened, cannot be made the sole basis for exercising extraordinary jurisdiction under Article 226, unless the material on record demonstrates a patent and incontrovertible illegality. The Board of Revenue, which was the competent revisional authority and had the entire record before it, did not find the material sufficient to invalidate the resolution or the consequential appointment. This Court, therefore, finds no compelling ground to substitute its own assessment for the view taken by the revisional authority.

24. Another important aspect of the matter is the claim of the petitioner that since his father, late Kalyan Das Mongri, was the erstwhile Kotwar and the petitioner was a minor at the relevant time, he ought to have been appointed after attaining majority. Such contention cannot be accepted as conferring upon the petitioner an indefeasible or vested right to appointment. The appointment to the post of Village Kotwar is governed by the statutory provisions and the applicable Rules. Even if the Rules contemplate preference or consideration in favour of a near relative of an erstwhile Kotwar, such provision cannot be construed as creating an

absolute right to appointment irrespective of the statutory procedure.

25. In the present case, respondent No.1 is the son of Pitamber Das, who had admittedly served as Village Kotwar after the death of the petitioner's father. Therefore, respondent No.1 was also a person falling within the category of near relative contemplated under the applicable statutory scheme. The mere fact that the petitioner is also related to an erstwhile Kotwar cannot, therefore, invalidate the appointment of respondent No.1, particularly when the competent authority considered his candidature and the Board of Revenue has found the appointment to be in accordance with law.

26. The judgment relied upon by learned counsel for the petitioner in *Pardeshi Ram Vs. State of Chhattisgarh and Others*, W.P.(S) No.7497 of 2023, also does not advance the case of the petitioner to the extent sought. The principle that preference to a near relative of an erstwhile Kotwar does not create a vested right of appointment operates equally against the claim of the petitioner. The petitioner may claim consideration in accordance with the Rules, but he cannot claim appointment as a matter of right merely because his father had earlier served as Kotwar or because the petitioner was a minor when his father died.

27. It is also significant that the petitioner is not the person who was appointed by the Tahsildar and whose appointment was subsequently challenged by him on the ground that he himself was the person entitled to appointment. The petitioner has not demonstrated any independent statutory right which would require the competent authority to appoint him in preference to respondent No.1. His grievance, at its highest, concerns the manner in which the selection process was undertaken. Once the Board of Revenue, after considering the material, has found the appointment to be legally sustainable, the petitioner cannot succeed merely by establishing that the SDO and the Commissioner had earlier taken a different view.

28. The contention that the Board of Revenue failed to consider the objections raised by the petitioner also cannot be accepted in the absolute terms in which it has been urged. The impugned order shows that the Board considered the relevant controversy and thereafter came to the conclusion that the orders of the SDO (Revenue) and the Commissioner were not sustainable and that the original appointment made by the Tahsildar deserved to be restored. The conclusion may not be one which the petitioner considers favourable, but an

adverse conclusion does not, by itself, amount to non-consideration of the case.

29. It is trite that while exercising writ jurisdiction, this Court does not ordinarily re-appreciate the evidence or substitute its own conclusion for that of a competent statutory authority merely because another conclusion is also possible. The Board of Revenue had jurisdiction to examine the legality and propriety of the orders passed by the subordinate authorities and, upon consideration of the record, exercised its revisional jurisdiction. In the absence of any demonstrated jurisdictional error or manifest illegality in the exercise of such jurisdiction, interference under Article 226 of the Constitution would not be warranted.

30. In the matter of ***Union of India v. P. Gunasekaran (2015) 2 SCC 610***, The Supreme Court explained the limits of interference under Articles 226 and 227, emphasising that the High Court cannot ordinarily reappreciate evidence, reassess its adequacy or substitute its own factual conclusions for those of the competent authority. The relevant paras are quoted hereinunder:-

> ***"12.*** *Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the*

disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

***13.** Under Articles 226/227 of the Constitution of India, the High Court shall not:*

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience."

31. In ***Rajendra Diwan v. Pradeep Kumar Ranibala (2019) 20 SCC 143***, the Hon'ble Supreme Court has held as under:-

***"85.** The power of superintendence conferred by Article 227 is, however, supervisory and not appellate. It is settled law that this power of judicial superintendence must be exercised*

sparingly, to keep subordinate courts and tribunals within the limits of their authority. When a Tribunal has acted within its jurisdiction, the High Court does not interfere in exercise of its extraordinary writ jurisdiction unless there is grave miscarriage of justice or flagrant violation of law. Jurisdiction under Article 227 cannot be exercised "in the cloak of an appeal in disguise".

86. *In exercise of its extraordinary power of superintendence and/or judicial review under Articles 226 and 227 of the Constitution of India, the High Courts restrict interference to cases of patent error of law which go to the root of the decision; perversity; arbitrariness and/or unreasonableness; violation of principles of natural justice, lack of jurisdiction and usurpation of powers. The High Court does not re-assess or re-analyse the evidence and/or materials on record. Whether the High Court would exercise its writ jurisdiction to test a decision of the Rent Control Tribunal would depend on the facts and circumstances of the case. The writ jurisdiction of the High Court cannot be converted into an alternative appellate forum, just because there is no other provision of appeal in the eye of the law.*

87. *In L. Chandra Kumar [L. Chandra Kumar v. Union of India, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : AIR 1997 SC 1125] the Supreme Court in effect held that the power of the High*

Court under Articles 226/227 of the Constitution, being an inviolable basic feature of the Constitution such power cannot be abrogated by statutory enactment or for that matter even by constitutional amendment. L. Chandra Kumar [L. Chandra Kumar v. Union of India, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : AIR 1997 SC 1125] cannot be construed to enlarge the jurisdiction of the High Court under Articles 226 and 227 of the Constitution, to enable it to exercise appellate powers."

32. The aforesaid principle finds support from the judgment of the Hon'ble Supreme Court in ***Municipal Corporation of Greater Mumbai and Others v. Vivek V. Gawde and Others, 2024 SCC OnLine SC 3722***, wherein, while explaining the scope of jurisdiction under Articles 226 and 227 of the Constitution of India, the Supreme Court reiterated that the High Court exercises supervisory and judicial-review jurisdiction and does not ordinarily reassess or reanalyse the evidence and material on record. Interference is warranted where the impugned decision suffers from a patent error of law going to the root of the matter, perversity, arbitrariness, violation of the principles of natural justice, or lack of jurisdiction. The Court further reiterated that a mere erroneous decision does not, by itself, justify interference in supervisory jurisdiction.

33. Applying the aforesaid principles to the facts of the present case, this Court is required to examine whether the impugned order passed by the Board of Revenue suffers from any jurisdictional error, patent illegality, perversity or procedural irregularity warranting interference under Article 226 of the Constitution of India. The petitioner has questioned the validity of the Gram Sabha resolution dated 05.10.2019, the publication of the notice dated 13.12.2019 and the genuineness of the signatures appearing on the resolution, relying upon affidavits subsequently filed by several villagers. These objections have to be considered in the light of the material available on record and the findings recorded by the Board of Revenue. The mere fact that the SDO (Revenue) and the Commissioner had earlier taken a different view would not, by itself, justify interference with the impugned order. Unless the petitioner establishes that the conclusion reached by the Board of Revenue suffers from a recognised ground of judicial review, interference by this Court would not be warranted.

34. Having considered the matter in its entirety, this Court finds that the Board of Revenue, upon examining the material available on record, has taken the view that the appointment of respondent No.1 as Village Kotwar was not liable to be set

aside. The Board has declined to accept the petitioner's objections as sufficient to invalidate the resolution relied upon in support of the appointment. The conclusion reached by the Board of Revenue cannot be held to be perverse merely because the subordinate revenue authorities had earlier arrived at a different conclusion. In the absence of any demonstrated jurisdictional error or patent illegality in the exercise of revisional jurisdiction, this Court finds no sufficient ground to substitute its own assessment for that of the statutory revisional authority.

35. So far as the claim of the petitioner based on his relationship with the erstwhile Kotwar is concerned, such relationship does not confer an indefeasible or vested right to appointment. The appointment to the post of Village Kotwar is governed by Section 230 of the Chhattisgarh Land Revenue Code, 1959, and the Rules framed thereunder. Any preference available to a near relative of an erstwhile Kotwar must be considered in accordance with the applicable Rules and cannot be construed as an absolute right to appointment. In the present case, respondent No.1 is the son of Pitamber Das, who had served as Village Kotwar after the death of the petitioner's father. The petitioner has not established any

independent statutory right entitling him to appointment in preference to respondent No.1.

36. Consequently, this Court finds that the petitioner has failed to establish any jurisdictional error, patent illegality or perversity in the impugned order dated 07.11.2022 passed by the Chhattisgarh Board of Revenue, Bilaspur (Circuit Court, Jagdalpur), in Case No. R.N.20/A-56/06/2021, warranting interference under Article 226 of the Constitution of India. The writ petition, therefore, deserves to be dismissed.

37. Accordingly, the writ petition is **dismissed**. The impugned order dated 07.11.2022 passed by the Chhattisgarh Board of Revenue is affirmed. Consequently, the appointment of respondent No.1, Jageshwar Das, as Village Kotwar, pursuant to the order dated 15.01.2020 passed by the Tahsildar, Kondagaon, shall remain undisturbed.

38. It is, however, clarified that the dismissal of the present writ petition shall not be construed as conferring any independent or vested right to appointment upon either the petitioner or respondent No.1 beyond what is permissible under the Chhattisgarh Land Revenue Code, 1959, and the Rules framed thereunder. The competent authority shall exercise its statutory powers strictly in accordance with law.

39. There shall be no order as to costs.

Sd/-

(Amitendra Kishore Prasad)
Judge

Vishakha

HEAD-NOTE

The High Court, in exercise of its writ and supervisory jurisdiction, does not ordinarily reappreciate or reanalyse the evidence on record. Interference is warranted where the impugned decision suffers from patent error of law, perversity, arbitrariness, violation of natural justice or jurisdictional error. A mere erroneous decision does not, by itself, justify interference.