**(2012) 06 CHH CK 0029**

**In the Chhattisgarh High Court**

**Case No :** Writ Appeal No. 333 of 2012

Bali Ram Sahu and Others — APPELLANT

Vs

State of Chhattisgarh and Others — RESPONDENT

**Date of Decision :** 14-06-2012

**Acts Referred:**
Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 — Section 2(1)

**Citation :** (2012) 06 CHH CK 0029

**Hon'ble Judges :** Manindra Mohan Shrivastava, J;Abhay Manohar Sapre, J

**Bench :** Full Bench

**Advocate :** Raghvendra Pradhan, for the Appellant; M.P.S. Bhatia Dy G A for the State, for the Respondent

**Final Decision :** Dismissed

# Judgement

Abhay Manohar Sapre, J.—This is an appeal filed by the writ petitioners of W.P. (S) No. 2135 of 2012 u/s 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 against the order dated 6/6/2012 passed in aforementioned writ petition. By the impugned order, the learned Single Judge disposed of the writ petition filed by the appellants with certain liberty.

2. So the question, which arises for consideration in this appeal is whether the learned Singh Judge was justified in disposing of the appellant''s writ petition?

3. Facts of the case are short:-

4. The appellants (writ petitioners) are Revenue Inspectors working as such in State Services as their substantive post in State Services. It appears from the record of the case and is not disputed that these appellants (writ petitioners) were given additional charge of the post of "Naib Tahsildar "by order dated 28.12.2011 to look after and discharge the duties of Naib Tahsildar till further orders. It is this additional charge, which was cancelled/withdrawn by an order 2.6.2012 by impugned order.

 

5. It is this cancellation/withdrawal order (2.6.2012) which gave rise to its challenge by filing a writ petition out of which this writ appeal arises by the appellants (Revenue Inspectors). The writ Court finding no merit in the writ petition dismissed the writ petition and upheld the order of cancellation/ withdrawal as being legal and proper. It is against this order; the writ petitioners have now felt aggrieved and filed this writ appeal.

6. Having heard the learned Counsel for the appellants ( writ petitioners) and on perusal of the record of the case, we are inclined to dismiss the appeal as in our opinion, the order passed by the writ Court upholding the withdrawal order dated 2.6.2012 does not require any interference.

7. It is not in dispute and nor can it be disputed that the substantive post of the appellants on which they are appointed and working as on the date is "Revenue Inspector". It is also not in dispute and nor it can perhaps be again disputed that if such persons are asked by the State to look after and additionally discharge the duties and functions of some other post as in this case of "Naib Tahsildar" due to myriad administrative reasons for some period, then such order does not create any right much less legal right in favour of such persons (Revenue Inspectors) to claim the benefits attached to the post of "Naib Tahsildar" and nor can they enforce any of their alleged claim in court of law in relation to such post saying that they hold the substantive post of "Naib Tahsildar". In other words, giving of current charge additionally to look after and to discharge the duties attached to such post is only a temporary affair and the persons concern despite doing this additional work and duties continues to remain on their substantive post of "Revenue Inspector". They are only entitled to discharge the additional duties of the post of Naib Tahsildar so long as they are asked to do so with no right much less substantive right created in their favour and no sooner such order is withdrawn; they are restored to their substantive post of Revenue Inspector. Infect, even while discharging the additional duties and functions of another post of "Naib Tahsildar", the appellants (writ petitioners) continues to hold their substantive post and hold lien over it.

8. In the light of this well settled principle of service jurisprudence, when we examine the issue in question, then we have no hesitation in holding that neither an order directing the appellants (writ petitioners) to discharge the additional duties of the post of Naib Tahsildar and nor withdrawal of such order has created any kind of right in their favour to enforce any kind of benefits attached to such post so as to challenge such withdrawal order to seek restoration of such benefits. Such orders, in our opinion, were passed and infact must have been passed to overcome some administrative exigencies prevalent at the level of the State in their administrative sphere. It is not for us to examine the legality and correctness of any such causes relating to any administrative exigencies.

9. Since such withdrawal has not affected adversely any of the substantive rights of the appellants attached to their substantive post of "Revenue Inspector", there arise no question of challenge to such order. It is also not the case of the

appellants that they were either promoted to the post of Naib Tahsildar as per rules by undergoing regular departmental selection or promotional proceedings or were appointed on the post of Naib Tahsildar by direct recruit by regular selection process and hence the impugned order amounts to their removal of service from such post. Infact this is the reason mentioned in the orders referred above that so long as the exercise of filling the post of Naib Tahsildar is not undertaken, this arrangement is resorted to.

10. Before parting with the case, we however, wish to observe that it does not serve good to any one including for state administration to keep such posts vacant for long time and are not filled up either by taking recourse to the method of filling either by direct recruit or by taking recourse to the method of promotional channel as the case may be and as provided in the rules governing such filling of the post thereby causing loss and discontentment to all those eligible candidates who suffer due to inaction of the State in not resorting to filling of the vacancies in time. Indeed, this being an ongoing process in every administrative set up, timely taken action serves good to every one and in turn enhances the administrative capacity of every one and at the same time avoids unnecessary litigation such as the one we are dealing here. Every effort therefore must be made by State administration to ensure that posts are filled up by regular mode prescribed for such filling as soon as the event occurs or when it is likely to occur.

11. It is hoped that this exercise will be undertaken by the State administration at the earliest and all the post of Naib Tahsildar would be filled up by appointing/ promoting as the case may be as per the rules made in this behalf and the suitable persons strictly on the basis of their merit and seniority as provided in the rules would be appointed.

12. We also wish to clarify that we have not examined any other issue except the one mentioned above including the issue relating to power of any authority in passing such orders which are subject matter of the writ petition/appeal because the same was neither pressed in to service and nor decided by the writ Court. In the light of foregoing discussion, and subject to our observations, we find no case to interfere in the impugned order. The appeal thus fails and is accordingly dismissed in limine.

 