

(1957) 09 MP CK 0017

In the Madhya Pradesh High Court

Case No : Rev. A. No. 119/IA-15 of 1956

Pandit Mahendra Kumar Tiwari

APPELLANT

Vs

Laxmishankar

RESPONDENT

Date of Decision : 27-09-1957

Acts Referred:

Madhya Pradesh Land Revenue Code, 1959 — Section 205

Citation : (1958) MPLJ 40

Hon'ble Judges : R.D. Shukla, Member

Bench : Single Bench

Advocate : J.M. Anand, for the Appellant; G.P. Pande, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Shukla, Member

The Appellant and the Respondent were contestants for the post of Patel of village, Sagoria, tahsil and district Sagar, along with one Ambika Prasad, uncle of the Appellant. Ambika Prasad withdrew, allegedly, in favour of the Appellant before the date of election which was ordered to be held on 30-8-55. On 25-8-55, however, Respondent Laxmi Shankar objected to the eligibility of the Appellant on the ground that he was not a recorded holder of occupied land of the village in the village papers as required by Rule 1 (ii) of the rules of appointment of Patels. The Sub-Divisional Officer rejected the objection as belated but the Additional Deputy Commissioner on appeal held that since on the date of the application the Appellant was not a recorded holder of occupied land in the village papers, he was not eligible for appointment. As there was only one candidate left, namely, Respondent Laxmi Shankar, the learned Additional Deputy Commissioner appointed him Patel under Rule 6(1) of the aforesaid rules. Mahendra Kumar has now come up in the second appeal against the order of the Additional Deputy Commissioner.

It was urged on behalf of the Appellant that the objection raised by the

Respondent was very much belated and though his name was not actually recorded in village papers, he had acquired malik-makbuza title on 23.18 acres of land by virtue of a sale-deed dated 30-12-54 executed by his father and as a result his name came subsequently to be recorded in the village papers. It was argued that Rule 1 should not be interpreted literally; the fact that a candidate's name must de facto be recorded in the "village papers should not be treated as a binding condition. It should be enough for the spirit of this rule if a candidate is found in possession of land although his name may not have been recorded on the date of application. In this connection, it was pointed out by the Appellant's counsel that by virtue of the sale-deed executed on 30-12-54, which was also the last date of application, the Appellant was legally in possession of 23.18 acres of land and if action had been taken to record his name, then and there, Rule 1(ii) would not have stood in his way.

We might, briefly, examine the relevant rules on the subject. Rule 1 (ii) framed under s 50 of the M.P. A.P. R. Act for the appointment of Patels reads as follows:

Rule 1. No person shall be eligible for the office of Patel, if he-

(i)....

(ii) is not recorded as a holder of occupied land in the village papers of that village; and

(iii)....

Rule 4 enjoins that the enquiring officer shall make further enquiries for the purpose of ascertaining the "suitability" of each applicant for the office of Patel. The next succeeding rule throws light on the meaning of "suitability". It lays down that if any applicant is physically, morally, mentally, educationally, financially or otherwise unsuited for the office of Patel, the enquiring officer shall, after giving reasons for such opinion, reject his application and inform the applicant accordingly.

The language of Rule 1, on the one hand, and the language of Rules 4 and 5, on the other, indicate that the rule-makers intended to draw a distinction between the "eligibility" and the "suitability" of an applicant. Rule 1 commences significantly with the words, "No person shall be eligible etc." indicating that the observance of the conditions of eligibility is intended to be imperative. In other words, a person must be "eligible" before his "suitability" in other respects, viz., physical, moral, mental, educational and financial etc. can be taken into consideration. Under Rule 10 the Deputy Commissioner has been given discretion not to appoint a person as Patel even though he may have, in case of an election, secured the largest number of votes. As I had occasion to observe in another case, this discretion is exercisable only when the "suitability" of a candidate on grounds mentioned in Rule 5 is in issue. It cannot be exercised in a case where the question of eligibility is involved. For instance, the Deputy Commissioner cannot, in his discretion, appoint a Patel below the age of 21 in

violation of Rule 1 (i), howsoever "suitable" he might otherwise be. Similarly, he cannot ignore the other conditions of eligibility, namely, that the applicant must be a recorded holder of occupied land and a resident of the village of which he is to be appointed Patel. In short, all conditions of eligibility in Rule 1 are mandatory and cannot be waived or relaxed by the Deputy Commissioner in his discretion.

In the above context, it would appear that there is no need to ascertain the "spirit" of the rule or to abide by such "spirit". No interpretation of a statute is called for if the language is plain and does not admit of any doubt, or ambiguity, or does not contradict or conflict with the rest of it. In the instant case, the meaning of Rule 1(ii) are very plain. A candidate must not only be entitled to hold land but must also be its recorded holder in the village papers. When a person's name is recorded in village papers it amounts to a recognition of the fact of his possession. It is quite conceivable that although a person may have the necessary documents of title in his possession, his name may not come to be finally recorded in the village papers for various reasons. For instance, the transferor and the transferee may change their mind at the last moment or the transfer-deed may not be admitted for want of registration, or again, the sale may be questionable by a third party on ground of fraud, minority or misrepresentation. It seems, therefore, that the rule-makers wanted only actual and recognized holders of land to be eligible for the office of Patel. They did not intend to extend this privilege to mere putative holders of land and that is why the word "recorded" has been significantly used in the above rule.

Quite apart from the above considerations, the name of the Appellant could not possibly be brought on record by the Patwari on 30-12-54 (the last date of application) as it was on that very date that the transfer-deed was executed and the village being quite far away from the tahsil, it could not be registered till a few days thereafter. There is, therefore, no escape from the fact that the Appellant was not a recorded holder on the date of his application and could not be so recorded even if the Patwari had done his statutory duty.

It is true that the objection of the Respondent was belated but, as pointed out by the learned Additional Deputy Commissioner, this should not have been a sufficient ground for the Sub-Divisional Officer to ignore the contents of the objection. The appointing authority under the rules is the Deputy Commissioner. These powers have, however, been delegated to the Sub-Divisional Officer, vide Land Reforms Department's Notification No. 2113-3478-XXVIII, dated 7-10-55 issued u/s 205 of the M.P. Land Revenue Code. The final selection of the Patel rests with the appointing authority (in this case the Sub-Divisional Officer) and if the "enquiring officer" makes a mistake it is certainly up to the former to take appropriate steps before issuing the appointment order. Anything done against the rules by an enquiring officer is not binding on the appointing authority. Even if no objection had been made by the Appellant, the Sub-Divisional Officer was bound, as a part of his statutory duty, to see that a person, who was not eligible

under the rules, did not receive the appointment. For similar reasons the Additional Deputy Commissioner, in appeal, was bound to intervene if a mandatory provision of law was found to have been ignored.

I am, therefore, of the opinion that the provisions of Rule 1 (ii) are mandatory and should be strictly adhered to. The language being very plain admits of but one meaning. There is, therefore, no need for any interpretation or for attempting to attribute any other intention except the one which is clear from the language itself. The Courts are not concerned with the wisdom or the soundness of a law or rules validly made thereunder and must act on the plain meaning of the language when there exists no reasonable doubt about it.

For reasons stated above, I uphold the order of the learned Additional Deputy Commissioner and reject the appeal.