
(2010) 01 CHH CK 0036
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 7410 of 2009

Shatruhan Lal

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 11-01-2010

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2010) 2 MPJR 124

Hon'ble Judges : S.K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.K. Agnihotri, J.—By this petition, the petitioner seeks to challenge the legality and validity of the order dated 13-11-2009 (Annexure - P/4) passed by the Board of Revenue, Chhattisgarh, Bilaspur (Circuit Court, Raipur), in Revision Revenue Case No. RN/15/R/A-56/391/2006 (Homkumar v. Shatruhan Lal & Others), whereby the revision filed by Homkumar (respondent No.2 herein) has been allowed.

2. The facts, in brief, for adjudication of the case, are that the father of the petitioner was working as Kotwar of village Marmunda. After his death, the post of Kotwar was lying vacant. The petitioner, respondents No.2 and 3 applied for the said post. According to the petitioner, after completing the necessary formalities, by order dated 30-6-2003 (Annexure - P/3) passed by the Nayab Tahsildar, Ghumkha, the petitioner was appointed as Kotwar of village Murmunda.

3. Being aggrieved by the appointment of the petitioner, the respondent No.2 herein preferred an appeal before the Sub Divisional Officer, Rajnandgaon, which was dismissed by order dated 28-5-2004 (Annexure -P/2). Thereagainst, the respondent No.2, preferred an appeal before the Additional Collector, Rajnandgaon, which was also dismissed by order dated 8-2-2006 (Annexure -- P/3). Feeling aggrieved by the said order, the respondent No.2 preferred a

revision before the Board of Revenue, which has been allowed by order dated 13-11-2009 (Annexure -- P/4), setting aside the orders passed by the Sub Divisional Officer and the Additional Collector, Rajnandgaon and also cancelled the appointment order dated 30-6-2003 passed in favour of the petitioner. Thus, this petition.

4. Shri Kotecha, learned counsel appearing for the petitioner, would submit that the petitioner was appointed on the post of Kotwar after following the due process of law. The Gram Panchayat had passed the resolution in favour of the petitioner. Shri Kotecha would further submit that, being unsuccessful in the selection process, the respondent No.2 has raised the objection, which is not at all sustainable in the eye of law. By the impugned order learned Board of Revenue set aside the well reasoned orders passed by the Sub Divisional Officer and the Additional Collector without appreciating the facts and circumstances of the case in its letter and spirit. In support of his contention, Shri Kotecha placed his reliance on the decision of the Supreme Court in *Dhananjay Malik and Others Vs. State of Uttaranchal and Others*, and *Amlan Jyoti Borooah Vs. State of Assam and Others*, .

5. I have heard learned counsel appearing for the petitioner, perused the pleadings and the documents appended thereto.

6. While allowing the revision preferred by the respondent No.2 herein, learned Board of Revenue observed that without issuing advertisement, inviting any applications from the eligible and suitable candidates and without conducting any interview, the petitioner herein has been appointed. The petitioner, while working on the post of Panch has applied for the post of Kotwar and without considering the said fact the petitioner has been appointed on the post of Kotwar.

7. Reliance of the learned counsel for the petitioner on the decisions of the Supreme Court rendered in *Dhananjay Malik and Amlan Jyoti Borooah (supra)* is not relevant to the facts of the present case. It is a trite law that if a candidate has subjected to the procedure as announced earlier before participation, the candidate cannot agitate the same after selection process. In the instant case, the criteria was well known that a person holding an elected office of Panch cannot participate in the selection process for appointment on the post of Kotwar. Despite that, the petitioner was selected on the post of Kotwar when indisputably on the date of making application i.e. 16-4-2003 he was holding the office of Panch of Gram Panchayat.

8. It is well-nigh established that this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India should refrain itself from interfering with the order passed by the Courts below, except in such cases where perversity, illegality, irregularity or jurisdictional error is writ large on the face of the record, which is not the case here.

9. In view of the above, this writ petition has no merit, it is accordingly dismissed.