

20

AMENDED CAUSE TITLE

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 340 of 2010

PETITIONER:

MAHENDRA KUMAR SHUKLA,
S/o Shri N. P. Shukla,
Aged about 38 years,
Presently practicing as an advocate,
enrolled in the Navagarh
Tahsil Bar Association Navagarh
District Janjgir-Champa,
R/o - Village & post Misda,
Tahsil Navagarh,
District Janjgir-Champa (CG)

Versus

RESPONDENTS

1. State of Chhattisgarh
Through,
The Principle Secretary,
Law and Legislative Affairs Department,
State of Chhattisgarh, Raipur (C.G.)
2. The Secretary,
Law and Legislative Affairs Department,
State of Chhattisgarh,
D.K.S. Bhawan, Raipur (C.G.)
3. The District Judge Janjgir-Champa,
district court premises Janjgir,
District Janjgir-Champa (CG)
4. Mr. Veankat Prashad Gupta,
S/o Yashavantlal Gupa
Aged about 40 years, permanent resident
of village Salkhan,
working as Notary Tahsil Court Navagarh,

B

9

District Janjgir-Champa (CG)

5. Mr. Ravi Kashayap,
Aged about 40 years, permanent resident
of village and post Kuryari,
working as Notary Tahsil Court Navagarh,
District Janjgir-Champa (CG)
6. Mr. Maheshawer Shukla [Complainant],
S/o late Mankaranlal Shukla,
aged about 46 years,
presently practicing as an advocate,
enrolled in the Navagarh
Tahsil Bar Association Navagarh,
permanent resident of behind the old bus
stand and vegetables market,
Pd. Dindayal Upadhyay ward,
ward No. 20 Janjgir,
District Janjgir-Champa

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN
NATURE OF MANDAMUS, CERTIORARI, PROHABITAION,
etc. AND / OR FOR ORDER AND / OR DIRECTION /
DIRECTIONS IN NATURE OF WRIT.

R



97

APR

HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION (C) NO.340 OF 2010

PETITIONER

Mahendra Kumar Shukla

Versus

RESPONDENTS

State of Chhattisgarh & Others

(Writ petition under Article 226 of the Constitution of India)

Single Bench : Hon'ble Shri Satish K. Agnihotri, J.

Present :- Shri Ashish Shrivastava and Shri Vijay Deshmukh, Advocates
for the petitioner.

Shri A.V. Sridhar, Panel Lawyer for the State.

ORDER (ORAL)

(Passed on this 30th day of June, 2010)

1. By this petition, the petitioner impugns the letter dated 17-10-2008 (Annexure – P/16) by which the Additional Secretary, Department of Law and Legislative Affairs intimated the Under Secretary, Department of General Administration with regard to cancellation of appointment of the petitioner on the post of Notary on the basis of complaint received against him and appointment of one Venkat Prasad Gupta. The petitioner further challenges the communication dated 27-10-2009 (Annexure – P/20) by which the petitioner has been intimated about the rejection of his representation. The petitioner also prays for setting aside the Notary Profession Certificate issued in favour of the respondent Venkat Prasad Gupta and to appoint him on the post of Notary as per the proceedings of the note sheet dated 19-8-2008 (Annexure – P/8).
2. The facts, in brief, for adjudication of the case, are that after completion of LL.B. degree, the name of the petitioner was enrolled as an Advocate bearing enrollment No.CG/2247/1998/Adv., as is evident from the Advocate Identity Card (Annexure – P/3). On the basis of memo dated 8-5-2008 (Annexure – P/4) issued by the Clerk



90

of Court, office of the District & Sessions Judge, Janjgir-Champa, with regard to two vacant posts of Notary, the petitioner along with others applied for the same. According to the petitioner, after completion of all formalities, the petitioner was selected and his name found place at S.No.1, as per the proceedings dated 19-8-2008 (Annexure – P/8). In the meantime, one Maheshawar Shukla (respondent No.6 herein) filed a complaint against the petitioner stating that the petitioner is not having requisite experience. On the basis of the said complaint, the candidature of the petitioner has been rejected and in his place one Venkat Prasad Gupta (respondent No.4 herein) has been appointed as Notary. Thus, this petition.

3. Shri Shrivastava, learned counsel appearing for the petitioner, submits that the name of the petitioner was at S.No.1 in the note sheet proceedings, for consideration and appointment on one post of Notary. The petitioner being at S.No.1 has to be considered and appointed first. If the petitioner declines to accept the post of Notary in that event only other names should be considered. Shri Shrivastava further submits that before rejection of the candidature of the petitioner, there should be a proper notice to the petitioner to put forward his case, but the same has not been done in the case on hand. The impugned action of the respondent authorities is illegal, arbitrary and against the principles of natural justice. They are acting with *mala fide* intension against the petitioner only to harass him.
4. On the other hand, Shri Sridhar, learned Panel Lawyer appearing for the State, submits that the petitioner does not acquire any right on the basis that his name was at S.No.1, in the noting of minutes, though the list was not prepared on the basis of any test or merit.



ag

5. I have heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto.
6. The petitioner has challenged the proceedings, which is neither binding nor effective till it is converted to a proper order. Thus, challenge to the proceedings is not at all maintainable. Upon perusal of the record it appears that the petitioner belongs to general category. The maximum experience for general category candidates is 10 years. The name of the petitioner was enrolled as an advocate on 11-10-1998 and the period of ten years would come to an end on 10-10-2008, but the petitioner has filed his application for the post of Notary before 10-10-2008. Therefore, he has not acquired the requisite experience. Even otherwise, the petitioner has not challenged the validity of any order of appointment. The entire challenge is to the contents of the note sheet, which cannot be made effective as it is without there being any formal order on the basis of said notings.
7. The other contention of learned counsel appearing for the petitioner is without any basis, as there is no scheme for affording an opportunity of hearing to all the applicants before appointment. The petitioner is mere applicant for the post of Notary. By making an application a candidate does not acquire any right to the post. The petitioner has failed to establish his case.
8. In the result, the writ petition fails and is hereby dismissed. No order as to costs.

Gowri

Sd/-
Satish K. Agnihotri
Judge