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HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Reserved on : 03.02.2026

Order Delivered on : 28.02.2026

WPS No. 7386 of 2023

Shaukilal Chauhan S/o Late Shri Punilal Chauhan, Aged About 56 Years
R/o Village Pusalda, Tahsil And P.S. Now Pusour, District Raigarh, Civil
And Revenue District Raigarh Chhattisgarh.

... Petitioner

versus

- 1 - State of Chhattisgarh Through Collector, Raigarh Chhattisgarh.**
- 2 - The Board of Revenue, Revenue, Bilaspur District Bilaspur Chhattisgarh.**
- 3 - The Commissioner, Bilaspur Division, Bilaspur District Bilaspur Chhattisgarh.**
- 4 - The Sub Divisional Officer, (Revenue) Raigarh, District Raigarh Chhattisgarh.**
- 5 - The Nayab Tahsildar, Raigarh, District Raigarh Chhattisgarh.**
- 6 - Setram S/o Shri Kalap Ram R/o Village Pusalda, Tahsil And P.S. Now Pusour, District Raigarh Chhattisgarh.**
- 7 - Gayaram Chauhan S/o Shri Baranlal Chauhan, R/o Village Pusalda, Tahsil And P.S. Now Pusour, District Raigarh Chhattisgarh.**
- 8 - Tulsiram Chauhan S/o Shri Punilal Chauhan, R/o Village Pusalda, Tahsil And P.S. Now Pusour, District Raigarh Chhattisgarh.**
- 9 - Dinesh Kumar S/o Shri Setram R/o Village Pusalda, Tahsil And P.S. Now Pusour, District Raigarh Chhattisgarh.**

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Manoj Kumar Sinha, Advocate
For Respondents-State	:	Mr. Anvay Tiwari, Panel Lawyer
For Respondents No.6 & 9	:	Mr. Rahul Mishra, Advocate on behalf of Mr. Dhani Ram Patel, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

C A V Order

1. The present writ petition arises out of proceedings relating to appointment on the post of Village Kotwar under Section 230 of the Chhattisgarh Land Revenue Code, 1959 (hereinafter referred to as "the Code"). The petitioner seeks to challenge the impugned order dated 02.08.2023 passed by the Board of Revenue, Bilaspur Chhattisgarh, whereby the revision bearing No.RN/13/A-56/97/2011, preferred by respondent No.6 was allowed, the concurrent orders passed by the Sub-Divisional Officer (Revenue), Raigarh dated 17.07.2007 and the Commissioner, Bilaspur Division, Bilaspur dated 28.03.2011 were set aside, and the order dated 06.06.2007 passed by the Nayab Tahsildar, Raigarh appointing respondent No.6 as Kotwar of Village Pusalda was restored. The said order of the Board of Revenue has the effect of unsettling a lawful appointment made in favour of the petitioner, who had been appointed as Kotwar pursuant to appellate orders and had discharged Kotwari duties since 19.07.2007.
2. The petitioner was appointed as Kotwar of Village Pusalda, Tahsil Pusour, District Raigarh (C.G.), in pursuance of the order dated 17.07.2007 passed by the Sub-Divisional Officer (Revenue), Raigarh

in appeal under Section 44(1) of the Code, 1959 which appointment was duly effectuated by the Tahsildar on 19.07.2007. The said appellate order was thereafter affirmed in second appeal by the Commissioner, Bilaspur Division, vide order dated 28.03.2011, holding that the petitioner, being the son of the ex-Kotwar and otherwise eligible and experienced, was entitled to appointment under Section 230 of the Code, 1959. The petitioner's appointment thus attained finality and continued uninterrupted for several years until the same was sought to be disturbed by the impugned revisional order dated 02.08.2023, passed after an inordinate delay, ignoring settled principles governing exercise of revisional jurisdiction.

3. The petitioner has filed the instant writ petition with the following relief(s) :-

"10.1 That the Hon'ble Court be pleased to call for the entire records of the petitioner case.

10.2 That the Hon'ble Court be further pleased to quash the impugned order dated 02.08.2023 (Annex P/1) passed by the respondent Board of Revenue, Bilaspur being illegal and confirmed the order passed by the Sub Divisional Officer, Raigarh and the Commissioner, Bilaspur Division on 28.03.2011 (Annex. P/6) and consequently the respondent No. 5 Tahsildar, Pusour may be directed to appoint the petitioner as Kotwar of the village Pushalda Tah. Pusour Distt. Raigarh (C.G.).

10.3 Any other order that the Hon'ble Court deems fit and necessary in the circumstances of the case be also passed.

10.4 That the cost of the petition be also awarded to the petitioner.”

4. Brief facts for the case in a nutshell are that the petitioner is a resident of Village Pusalda, Tahsil and Police Station Pusour, District Raigarh (C.G.). His father was working as Kotwar of Village Pusalda; however, owing to serious ailments, he became unfit to discharge the duties of Kotwar. Consequently, the Gram Panchayat, Pusalda, in its resolution dated 28.02.2007, proposed appointment of the petitioner being the son of the existing Kotwar as Kotwar of the village, considering him suitable under the Rules and experienced in Kotwari work, as he had been assisting his father. The petitioner's father expired on 16.03.2007. Thereafter, the petitioner submitted an application before the Nayab Tahsildar, Raigarh, seeking appointment on the post of Kotwar along with the death information, Gram Panchayat proposal dated 28.02.2007, and his educational certificates. On 19.03.2007, respondent No.6, Setram, also submitted an application claiming appointment as Kotwar and sought cancellation of the Gram Panchayat proposal with signatures of the Up-Sarpanch and certain villagers.
5. Subsequently, the Nayab Tahsildar initiated proceedings and issued proclamation inviting applications for appointment to the post of Kotwar. The petitioner and four other candidates submitted their applications. Upon scrutiny, it was found that the petitioner

possessed experience in Kotwari work, whereas Respondent No.6 had earlier been appointed only as a temporary Kotwar and was later removed pursuant to orders of the higher authorities. However, by order dated 06.06.2007, the Nayab Tahsildar appointed respondent No.6 as Kotwar of Village Pusalda under Section 230 of the Code, 1959.

6. Aggrieved, the petitioner preferred an appeal under Section 44(1) of the Code, 1959 before the Sub-Divisional Officer (Revenue), Raigarh. Vide order dated 17.07.2007, the Sub-Divisional Officer held that the order dated 06.06.2007 was illegal, set it aside, and directed appointment of the petitioner as Kotwar. In pursuance thereof, the petitioner was appointed as Kotwar on 19.07.2007. Thereafter, respondents-Gayaram and Setram preferred a second appeal under Section 44(2) of the Code, 1959 before the Commissioner, Bilaspur Division, contending that the petitioner lacked experience and that there was a police report against him. The said appeal was dismissed vide order dated 28.03.2011, wherein the Commissioner upheld the order of the Sub-Divisional Officer, observing that under Section 230 of the Code, 1959, a near relative, particularly the son of an ex-Kotwar, could validly be appointed.
7. Subsequently, respondent No.6 filed a revision under Section 50 of the Code, 1959 before the Board of Revenue, which was registered as Revision Case No. RN/13/R/A-56/97/2011.
8. By the impugned order dated 02.08.2023, the Board of Revenue set

aside the orders passed by the Sub-Divisional Officer and the Commissioner and restored the order dated 06.06.2007 passed by the Nayab Tahsildar, thereby allowing the revision petition.

9. The petitioner, being aggrieved by the impugned order dated 02.08.2023, has preferred the present writ petition contending that the said order is illegal, arbitrary, and contrary to the provisions of law, and seeks restoration of the order dated 28.03.2011 passed by the Commissioner, Bilaspur Division.
10. Learned counsel for the petitioner submits that father of the petitioner Punilal was the duly appointed Kotwar of the said village. Owing to serious ailments rendering him unfit to discharge Kotwari duties, the Gram Panchayat, Pusalda, passed a unanimous resolution dated 28.02.2007 proposing appointment of the petitioner being the son of the existing Kotwar as Kotwar of the village. The petitioner's father had also executed an Ikrarnama dated 22.02.2007 expressing his willingness for appointment of the petitioner in his place. Both the resolution and Ikrarnama were duly placed before the competent authority. It is further submitted that after the demise of the petitioner's father on 16.03.2007, the petitioner promptly applied for appointment to the post of Kotwar along with all requisite documents. Though Respondent No.6 also applied subsequently, the Sub-Divisional Officer, upon detailed consideration, found the order dated 06.06.2007 passed by the Nayab Tahsildar appointing respondent No.6 to be illegal and arbitrary, and by order dated 17.07.2007 rightly directed appointment of the petitioner, which was

effectuated on 19.07.2007. The said order was affirmed by the Commissioner, Bilaspur Division, vide a reasoned order dated 28.03.2011, holding that under Section 230 of the Code, 1959 preference may be given to a near relative of the ex-Kotwar.

11. Learned counsel submits that the Board of Revenue, while passing the impugned order dated 02.08.2023, has completely ignored the statutory mandate of Section 230 of the Code, 1959 and Rules 2 and 4 of the Kotwari Rules. The Rules prescribe only disqualifications and do not stipulate any educational qualification for appointment as Kotwar. Preference to a near relative of the ex-Kotwar “other things being equal” is a statutorily recognised principle, which has been upheld by this Court, including in *Daya Das Panka vs. Nirmaldas & Ors.*, **WP No.1927/2004**, decided on **08.11.2016**. It is submitted that the findings recorded by the Board of Revenue regarding alleged lack of qualification or suitability of the petitioner are contrary to the Kotwari Rules, settled legal position, and the concurrent findings of the Sub-Divisional Officer and the Commissioner. Both authorities had recorded clear findings that the petitioner is of good character, experienced in Kotwari work, and legally entitled to appointment, having already served as Kotwar since 2007.
12. In view of the above, learned counsel submits that the impugned order dated 02.08.2023 passed by the Board of Revenue is illegal, arbitrary, and unsustainable in law, and therefore deserves to be quashed, with restoration of the orders dated 17.07.2007 and 28.03.2011 passed by the Sub-Divisional Officer, Raigarh, and the

Commissioner, Bilaspur Division, respectively.

- 13.** On the other hand, learned State counsel opposes the submissions advanced by learned counsel for the petitioner and submits that the impugned order dated 02.08.2023 passed by the Board of Revenue has been passed after due consideration of the entire record and is strictly in accordance with law. It is submitted that the Board of Revenue has exercised its revisional jurisdiction under Section 50 of the Code, 1959 correctly, as the orders passed by the Sub-Divisional Officer and the Commissioner were found to suffer from material irregularity and erroneous appreciation of facts. He further submits that mere relationship with the earlier Kotwar does not confer an automatic right of appointment. Although Section 230 of the Code, 1959 provides for preference to a near relative, such preference is conditional and subject to eligibility, suitability, and comparative assessment of all candidates. The appointing authority is required to consider age, suitability, and administrative convenience, and in the present case, Respondent No.6 was found suitable for appointment by the Nayab Tahsildar.
- 14.** It is submitted by learned State counsel that the Gram Panchayat proposal and Ikrarnama relied upon by the petitioner are recommendatory in nature and are not binding on the appointing authority. The ultimate discretion vests with the Revenue Authorities, and the Board of Revenue has rightly held that the appointment made by the Nayab Tahsildar on 06.06.2007 was in accordance with the provisions of the Code, 1959. He contends that the Board of

Revenue has assigned cogent and valid reasons while setting aside the orders of the Sub-Divisional Officer and the Commissioner, and no jurisdictional error or perversity is made out warranting interference under Article 226 of the Constitution of India. The scope of judicial review in such matters is limited and does not permit re-appreciation of facts. As such, learned State counsel prays for dismissal of the writ petition, holding that the impugned order dated 02.08.2023 passed by the Board of Revenue does not suffer from any illegality or infirmity.

- 15.** Learned counsel for respondents No.6 and 9 submits that after the death of late Punnial on 16.03.2007, who was the Choukidar/Kotwar of Village Pusalda, P.H. No.28, Tahsil and District Raigarh, the said vacancy was duly reported to the Nayab Tahsildar. Pursuant thereto, five applications were received, and after due consideration and upon receiving a resolution of the Gram Panchayat, Pusalda in favour of respondent No.6, the Nayab Tahsildar, strictly following the provisions of Section 230 of the Code, 1959 and Rule 4 of the Kotwari Rules, passed an order dated 06.06.2007 appointing respondent No.6 (Setram) as Kotwar. It is further submitted that though the petitioner preferred an appeal being Revenue Appeal No.78/A-56/06-07 before the Sub-Divisional Officer (Revenue), Raigarh, the said authority, without properly appreciating the mandate of Rule 4 of the Kotwari Rules and without due regard to the Gram Panchayat resolution, illegally allowed the appeal vide order dated 17.07.2007. In consequence thereof, the Tahsildar, by

order dated 19.07.2007, cancelled the valid appointment of respondent No.6 and appointed the petitioner as Kotwar, which was contrary to law. It is further submitted that respondents No.6 and 9 thereafter preferred appeal before the Commissioner, Bilaspur Division, which was dismissed on 28.03.2011; however, the said order was rightly interfered with by the Board of Revenue in revision. Vide impugned order dated 02.08.2023, the Board of Revenue has held that Respondent No.6 has been continuously working as Kotwar from the time of the ex-Kotwar Punnial and is an experienced person. It has also been recorded that the father of Respondent No.6, namely Kalapram, had earlier discharged Kotwari duties from 1982 to 1997 without any complaint, whereas the petitioner has indulged in selling Kotwari land, reflecting improper and criminal conduct.

- 16.** It is submitted by learned counsel for respondents No.6 and 9 that the Board of Revenue has further correctly held that the resolution dated 28.02.2007 relied upon by the petitioner was passed prior to the death of ex-Kotwar Punnial, when no vacancy had arisen, and therefore the said resolution as well as the Ikrarnama dated 22.02.2007 have no legal sanctity. After the death of Punnial, the valid resolution of the Gram Panchayat was passed in favour of respondent No.6, fulfilling the mandatory requirement under Rule 4 of the Kotwari Rules. Accordingly, the Board of Revenue restored the lawful order dated 06.06.2007 passed by the Nayab Tahsildar and set aside the contrary orders of the Sub-Divisional Officer and

the Commissioner.

17. Learned counsel further submits that it is well-settled by judgments of this Court, including ***Padum Das vs State of C.G. (WP No.4285/2004)*** and ***Sukanit Bai Saunra vs State of C.G. (WP No.4860/2004)***, that appointment of Kotwar must be based on a valid resolution of the Gram Panchayat and that preference to a near relative of the ex-Kotwar applies only when “other things are equal.” In the present case, other things are clearly not equal, and the petitioner does not deserve preference. Lastly, it is submitted that respondent No.6 does not suffer from any disqualification under Rule 2 of the Kotwari Rules, his appointment is strictly in accordance with Section 230 of the Code, 1959 and the impugned order dated 02.08.2023 passed by the Board of Revenue is well-reasoned and calls for no interference. Hence, the writ petition is devoid of merit, does not disclose any cause of action, and is liable to be dismissed at the threshold.
18. I have heard the learned counsel appearing for the parties at length and considered their rival submission made herein and gone through the record thoroughly and extensively.
19. For proper adjudication of the case, it would be apposite to extract Section 230 of the Chhattisgarh Land Revenue Code, 1959, which reads as under:-

“230. Appointment of kotwars and their duties.”-(1) For each village or group of villages, there shall be appointed, in

accordance with Rules made under Section 258, one or more kotwars for the performance of such duties as may be prescribed :

Provided that in the Madhya Bharat region the duties of kotwars under this section shall be performed by the Police Chowkidars who shall, on the coming into force of this Code, be deemed to be kotwars under this section, and be subject in all respects to the control of Revenue Officers.

(2) Every person who at the coming into force of this Code holds the post of a village watchman in the Bhopal and Sironj regions or of a chowkidar in the Vindhya Pradesh region shall be deemed to be a kotwar under this section”

- 20.** Rules regarding appointment, punishment and removal of Kotwars and their duties are noticed under Section 230 of the CGLRC, relevant provisions of which reads as under :-

“1. The number of Kotwars who shall hold office in any villages shall be as fixed at the preceding settlement:

Provided that the Collector may reduce or increase the number of Kotwars as fixed at the preceding settlement and may appoint additional Kotwars for villages in charge of a single Kotwars or put a Kotwar in charge of more villages than one in cases,-

(a) wherever it is necessary in order to raise the number of houses in charge of a Kotwar to a minimum of 50; or

(b) wherever it necessary in order to reduce the number of houses in charge of a Kotwar to 200; or

(c) with the sanction of the State Government for any other reason.

2. No person shall be eligible for the post of Kotwar, who-

(i) is, in the opinion of the appointing authority, not of good character and antecedents;

(ii) is, in the opinion of the appointing authority, unfit through infirmity of body or mind, to perform the duties of the post;

(iii) is below the age of 21 years;

3. The appointment of Kotwar shall rest with the Collector, Sub-Divisional Officer, Assistant Collector of the first grade, Assistant Collector of the second grade if specially empowered by the Collector in this behalf. Tahsildar or Naib-Tahsildar who is empowered to exercise the powers of a Tahsildar under Sub-section (2) of Section 24 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959):

Provided that the Collector may specially empower a Naib Tahsildar who has not been invested with the powers of a Tahsildar under the said Code to make appointments under this rule.

4. [(1) On the occurrence of a vacancy in the post of a Kotwar, the Revenue Officer, who is empowered to make appointment, after

receiving a resolution duly passed by the Gram Sabha in whose area the post of Kotwar is vacant, shall appoint on eligible person on the post of Kotwar, if the person proposed in the resolution does not fulfil the qualification prescribed in rule 2, the authorised Revenue Officer shall reject the resolution after recording the reasons in writing and intimate the Gram Sabha and call for a fresh proposal:

Provided that immediately on occurrence of a vacancy, the appointing authority may temporarily appoint a suitable person to perform the duties of the office of Kotwar till the regular appointment under sub-rule (1) is made.]

(2) In making appointment of a Kotwar under Sub-rule (1) preference may be given to the near relative of the ex-Kotwar, other things being equal.

Note.-If the vacancy is caused by the suspension or dismissal of the previous incumbent for bad character, misconduct or disobedience and the effect of the dismissal would be lost if a member of his family is appointed to succeed him, relatives of the previous incumbent may not be appointed.

5. (1) The appointing authority may fine, suspend or dismiss a Kotwar for,-

(i) being of bad character, actually participating in any kind of undesirable activities or acting in any manner which, in the opinion of the appointing authority, is not

in public interest;

(ii) willful breach of Rules:

Provided that the amount of fine imposed at any one time shall not exceed Rs. 5.

(2) Action should be taken on reports made by the Police against Kotwars and result thereof be intimated to the police forthwith.

6. The appointing authority may terminate the services of a Kotwar whenever, owing to age or to mental or physical infirmity, he is no longer fit to perform the duties of the post.”

- 21.** From perusal of the aforementioned statutory provisions, it clearly transpires that the post of Kotwar is not a contractual, casual, or hereditary engagement, but a statutory post created, regulated, and controlled exclusively by the provisions of the Code, 1959 and the Rules framed thereunder. The Code, 1959 and the Rules comprehensively occupy the field with regard to the eligibility criteria, mode of appointment, duties, disciplinary control, suspension, dismissal, and termination of a Kotwar.
- 22.** The power to appoint a Kotwar vests solely in the competent Revenue Authorities, namely the Collector and other Revenue Officers duly empowered under the Rules, and such appointment is required to be made strictly in accordance with the procedure prescribed, including consideration of the resolution of the concerned Gram Sabha. Likewise, continuance in service, imposition of penalties, and removal from service are matters falling entirely within the statutory control of the appointing authority,

subject to the satisfaction of the conditions enumerated under the Rules and observance of principles of fairness.

- 23.** The scheme of Section 230 and the Rules framed thereunder further makes it evident that no person can claim appointment or continuation on the post of Kotwar as a matter of right, much less on the basis of lineage, past occupation of a family member, or any equitable consideration dehors the statute. Any preference accorded to a near relative of an ex-Kotwar is merely discretionary and conditional, and does not confer any vested or enforceable right.
- 24.** Thus, the statutory framework leaves no manner of doubt that rights and obligations relating to the post of Kotwar emanate solely from the statute, and any appointment, disciplinary action, or termination made in conformity with the Code, 1959 and the Rules would fall squarely within the jurisdiction of the competent Revenue Authority and would not be open to interference unless shown to be vitiated by patent illegality, procedural irregularity, or arbitrariness.
- 25.** In the present case, it is not in dispute that the petitioner's father, late Punilal, was the duly appointed Kotwar of Village Pusalda, Tahsil Pusour, District Raigarh. Owing to serious ailments, he became unfit to discharge Kotwari duties, and thereafter expired on 16.03.2007, resulting in a vacancy on the said post. Prior thereto, the Gram Panchayat, Pusalda, by unanimous resolution dated 28.02.2007, proposed appointment of the petitioner, being the son of the existing Kotwar, considering his suitability and experience in Kotwari work, as he had been assisting his father. The petitioner

accordingly submitted an application before the Nayab Tahsildar along with requisite documents.

- 26.** Upon initiation of proceedings, applications were invited, including that of respondent No.6, who had earlier worked only as a temporary Kotwar and had been removed pursuant to orders of higher authorities. After consideration, the Nayab Tahsildar, by order dated 06.06.2007, appointed respondent No.6 as Kotwar. The petitioner, being aggrieved, preferred an appeal under Section 44(1) of the Code, 1959. The Sub-Divisional Officer (Revenue), Raigarh, vide a detailed and reasoned order dated 17.07.2007, held the appointment of respondent No.6 to be illegal, set aside the order dated 06.06.2007, and directed appointment of the petitioner as Kotwar, which was duly implemented on 19.07.2007.
- 27.** The order of the Sub-Divisional Officer was thereafter challenged by respondent No.6 in second appeal under Section 44(2) of the Code, 1959 before the Commissioner, Bilaspur Division. The Commissioner, by order dated 28.03.2011, dismissed the appeal and affirmed the findings of the Sub-Divisional Officer, categorically holding that under Section 230 of the Code, 1959, preference could validly be accorded to a near relative, particularly the son of an ex-Kotwar, and that the petitioner was otherwise eligible, experienced, and of good character. Consequently, the petitioner continued to discharge Kotwari duties uninterruptedly pursuant to concurrent appellate orders.
- 28.** After an inordinate delay of more than twelve years from the order of

the Sub-Divisional Officer and more than a decade from the order of the Commissioner, respondent No.6 invoked the revisional jurisdiction of the Board of Revenue under Section 50 of the Code, 1959. The Board of Revenue, by the impugned order dated 02.08.2023, allowed the revision, set aside the concurrent orders passed by the Sub-Divisional Officer and the Commissioner, and restored the order dated 06.06.2007 passed by the Nayab Tahsildar, without recording any finding of jurisdictional error, perversity, or violation of statutory provisions in the appellate orders.

- 29.** A bare perusal of the impugned order demonstrates that the Board of Revenue has undertaken a fresh and detailed re-appreciation of facts and evidence, and has substituted its own subjective satisfaction in place of the concurrent findings recorded by two competent appellate authorities. Such an exercise is clearly beyond the permissible scope of revisional jurisdiction under Section 50 of the Code, 1959 which is confined to examining legality, propriety, or material irregularity, and does not extend to reopening concluded findings of fact.
- 30.** It is further significant that the petitioner had been appointed strictly in accordance with law pursuant to appellate orders, and had continuously discharged Kotwari duties for several years without any complaint or adverse material on record. The impugned order, by unsettling a long-settled position after an inordinate lapse of time, violates the principles of finality, certainty, and administrative fairness, and causes manifest prejudice to the petitioner.

31. It is well settled that orders passed by quasi-judicial authorities exercising appellate as well as revisional jurisdiction are not to be interfered with in exercise of writ jurisdiction unless there is manifest illegality, perversity, or miscarriage of justice. No such circumstance is made out in the present case.
32. In ***Municipal Council, Neemuch v. Mahadeo Real Estate, (2019) 10 SCC 738***, the Supreme Court emphasized that decisions taken in undue haste or by bypassing mandatory statutory requirements are liable to be struck down even if taken in good faith. The Hon'ble Supreme Court while dealing with the issue, has held as under :-

“14. It could thus be seen that the scope of judicial review of an administrative action is very limited. Unless the Court comes to a conclusion, that the decision maker has not understood the law correctly that regulates his decision-making power or when it is found that the decision of the decision maker is vitiated by irrationality and that too on the principle of “Wednesbury Unreasonableness” or unless it is found that there has been a procedural impropriety in the decision-making process, it would not be permissible for the High Court to interfere in the decision making process. It is also equally well settled, that it is not permissible for the Court to examine the validity of the decision but this Court can examine only the correctness of the decision-making process.

15. This Court recently in the case of West Bengal Central School Service Commission vs. Abdul Halim reported in 2019 SCC OnLine SC

902 had again an occasion to consider the scope of interference under Article 226 in an administrative action.

“31. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is selfevident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan v. Mallikarjuna reported in AIR 1960 SC 137. If the provision of a statutory rule is reasonably capable of two or more constructions and one construction has been adopted, the decision would not be open to interference by the writ Court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ Court by issuance of writ of Certiorari.

32. The sweep of power under Article 226 may be wide enough to quash unreasonable orders. If a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ Court. If the decision

cannot rationally be supported by the materials on record, the same may be regarded as perverse.

33. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the sufficiency of the grounds in support of a decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ Court does not interfere, because a decision is not perfect.

16. It could thus be seen that an interference by the High Court would be warranted only when the decision impugned is vitiated by an apparent error of law, i.e., when the error is apparent on the face of the record and is self evident. The High Court would be empowered to exercise the powers when it finds that the decision impugned is so arbitrary and capricious that no reasonable person would have ever arrived at. It has been reiterated that the test is not what the court considers reasonable or unreasonable but a decision which the court thinks that no reasonable person could have taken. Not only this but such a decision must have led to manifest injustice.”

33 Further, the Supreme Court of India in ***Union of India v. M.V. Mohanan Nair, (2020) 5 SCC 421***, has authoritatively reiterated the

well-settled parameters governing the exercise of writ jurisdiction under Article 226 of the Constitution in matters involving departmental proceedings and findings of fact recorded by competent authorities. In the said decision, the Court held that where findings of fact have been concurrently recorded by the Disciplinary Authority, the Appellate Authority, and/or the Revisional Authority, such findings ordinarily attain finality and are not to be lightly interfered with by the High Court in exercise of its writ jurisdiction. The Court emphasized that judicial review is not an appeal on facts. The High Court does not sit as a court of re-appreciation of evidence, nor can it substitute its own conclusions for those arrived at by the statutory authorities. It was further clarified that interference would be justified only in exceptional circumstances, namely where the findings are: (i) Perverse — i.e., findings which are based on no evidence at all, or are such that no reasonable person acting judicially could have arrived at; (ii) Arbitrary or capricious — where relevant material has been ignored or extraneous considerations have influenced the decision; (iii) Vitiating by patent illegality — such as violation of principles of natural justice, non-observance of mandatory statutory provisions, or procedural irregularities causing manifest prejudice. The Court underscored that adequacy or sufficiency of evidence is not a ground for interference in writ proceedings. So long as there is some evidence to support the findings and the decision-making process is fair, reasonable, and in accordance with law, the High Court must exercise restraint. The principle flowing from the said judgment is

that writ jurisdiction is supervisory in nature and not appellate. Therefore, once statutory authorities have concurrently examined the record and arrived at reasoned conclusions, the High Court would transgress the limits of judicial review if it were to reassess the factual matrix merely because another view is possible. Thus, the dictum in ***M.V. Mohanan Nair*** (supra) reinforces the doctrine of judicial restraint and finality of concurrent factual findings, unless the petitioner is able to demonstrate perversity, arbitrariness, mala fides, or a manifest error apparent on the face of the record.

34. Reverting to the facts of the present case, this Court finds that the core controversy revolves around the legality and propriety of the order dated 02.08.2023 passed by the Board of Revenue in exercise of its revisional jurisdiction under Section 50 of the Chhattisgarh Land Revenue Code, 1959. The petitioner seeks restoration of the concurrent appellate orders passed by the Sub-Divisional Officer and the Commissioner; however, the scope of interference under Article 226 of the Constitution of India in such matters is circumscribed and supervisory in nature.
35. At the outset, it is to be borne in mind that the post of Kotwar is a statutory post regulated strictly under Section 230 of the Code and the Rules framed thereunder. Appointment to such post cannot be claimed as a matter of hereditary succession nor as a vested right merely on the basis of lineage. Rule 4(2) only provides that preference *may* be given to a near relative of the ex-Kotwar “other things being equal.” The expression “may” unmistakably indicates

discretion, and the condition “other things being equal” makes such preference contingent upon comparative eligibility, suitability, and overall administrative considerations. It is not an infeasible entitlement.

36. In the present case, although the petitioner relied upon the Gram Panchayat resolution dated 28.02.2007 and the Ikrarnama dated 22.02.2007 executed by his late father, it is an admitted position that the vacancy on the post of Kotwar arose only upon the death of late Punilal on 16.03.2007. The Board of Revenue has recorded a finding that the resolution relied upon by the petitioner was passed prior to the occurrence of vacancy and, therefore, lacked legal sanctity under Rule 4(1), which contemplates a resolution upon occurrence of vacancy. On the other hand, material was placed before the revisional authority to indicate that a valid resolution was subsequently passed in favour of respondent No.6. Whether one view is preferable to the other is not within the province of this Court in writ jurisdiction, so long as the view adopted by the revisional authority is a plausible and legally sustainable one.

37. The Board of Revenue has further taken into consideration the comparative suitability of the candidates, including the fact that respondent No.6 had earlier discharged Kotwari duties and did not suffer from any statutory disqualification under Rule 2 of the Kotwari Rules. Findings have also been recorded with regard to the petitioner's alleged conduct concerning Kotwari land. These are essentially findings on appreciation of factual material. This Court,

while exercising jurisdiction under Article 226, cannot re-appreciate evidence or substitute its own conclusions merely because another view is possible.

38. It is also to be noted that the revisional jurisdiction under Section 50 of the Code empowers the Board of Revenue to examine the legality and propriety of orders passed by subordinate authorities. The impugned order reflects that the Board has considered the entire record and assigned reasons for interfering with the appellate orders. It cannot be said that the revisional authority has acted without jurisdiction or in violation of any mandatory statutory provision. The mere fact that two authorities had earlier taken a different view would not, ipso facto, render the revisional interference illegal, particularly when the statute itself provides such a remedy.
39. The principles governing interference in judicial review have been succinctly explained by the Hon'ble Supreme Court in ***Municipal Council, Neemuch*** (supra) and reiterated in ***M.V. Mohanan Nair*** (supra), wherein it has been held that the High Court does not sit as an appellate court and will interfere only when the decision-making process is vitiated by patent illegality, perversity, arbitrariness, or manifest error apparent on the face of the record. Tested on the anvil of these settled parameters, the petitioner has not been able to demonstrate that the impugned order suffers from such vices.
40. Much emphasis was laid by learned counsel for the petitioner on the length of service rendered by him since 2007. While continuity in

service is undoubtedly a relevant consideration, it cannot override statutory compliance. If the foundational appointment is found to be legally unsustainable by the competent revisional authority within the framework of the statute, mere passage of time cannot sanctify an otherwise disputed claim, particularly when the dispute has been sub judice in statutory proceedings.

- 41.** The submission regarding delay in filing the revision also does not persuade this Court to interfere. The record indicates that the revision was entertained and adjudicated by the competent authority. In absence of any demonstrated statutory bar or specific plea establishing that the delay has caused irreversible prejudice in violation of law, this Court would be slow to invalidate the order solely on the ground of lapse of time, especially when substantive rights flowing from a statutory post are involved.
- 42.** Upon holistic consideration of the statutory scheme, the rival submissions, and the material available on record, this Court is of the considered opinion that the impugned order dated 02.08.2023 passed by the Board of Revenue does not suffer from lack of jurisdiction, patent illegality, perversity, or procedural impropriety warranting interference under Article 226 of the Constitution of India. The findings recorded therein are based on appreciation of material and cannot be characterized as such that no reasonable authority could have arrived at.
- 43.** Consequently, this Court declines to exercise its extraordinary writ jurisdiction to upset the well-reasoned order passed by the revisional

authority. The relief sought by the petitioner for quashment of the impugned order and restoration of the earlier appellate orders cannot be granted.

44. Resultantly, the writ petition, being devoid of merit, deserves to be and is hereby **dismissed**. No order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
03.02.2026	28.02.2026	-----	28.02.2026