

आदेश पर के
आदेश की क्रम सं०
और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई कार्रवाई के
बारे में टिप्पणी तारीख के साथ

26.08.2022

अपीलकर्ता की उपस्थिति है।
उत्तरकारी की उपस्थिति है।

Heard the learned counsel of the applicant -
As per the applicant the name is 'Pradhan'
name. However the last Pradhan died
in 1968. After a long gap selection was
held for appointment under Section-6.
~~Chandhan~~ Two applicants respectively
Shiladhar Mahab (Brother's grandson of deceased
Pradhan) and Shatal Mahab (Brother's son's
daughter's son) applied and ~~Pradhan~~ as
the applicant - 2 'Shiladhar Mahab'
was heir of nearest degree and
apparently there was consensus
among 16 sama rajat (no objection
was filed as required) and hence he
was appointed Pradhan.

Appeal was filed by
applicant second applicant ('Shatal Mahab').
During the appeal process the ~~Pradhan~~ the
Pradhan ('Shiladhar Mahab') died. The SDJ's
order was set aside by the Deputy
Commissioner and remitted back to

आदेश की क्रम सं०
और तारीख

आदेश ओर पदाधिकारी का हस्ताक्षर

the learned SDO for consideration of the
ground of 'General acceptability'.

with respect to the
application of the provision of 'general
acceptability' the learned advocate of
the appellant has placed his reliance
upon the decision of the division
bench in Smt. Swornats vs
a state of West Bengal (L.P.A No 135 of
1975) and challenged the decision
of the learned cont of SDM
whereby the learned SDM had
rejected the claim of the
present appellant on the ground that
there is no general acceptability
as such.

The learned advocate of
the respondent has ^{not} contested the claim
of the appellant as to the respondent

आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख की क्रम सं० और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई कार्रवाई के बारे में टिप्पणी तारीख के साथ

being an heir of nearest degree shown
 he has vehemently opposed the claim
 as to 'general acceptability of the appellant'
 as tried to be established by the learned
 lawyer of the appellant and has observed
 that it is obvious from the report of the
 learned circle officer as mentioned
 in the decision of the learned S.M.,
 which is awaited in the present
 matter, that there is no general
 acceptability in favour of the
 appellant and during the time
 the village suspected the claim of
 the respondent -

I have gone through the
 detail arguments of both the parties
 and have also heard the learned
 S.P. at Kalyan in the matter.
 Having formed the decision

फारम सं. 562
प्राप्त
दिनांक

आदेश की क्रम सं०
और तारीख

आदेश और पदाधिकारी का हस्ताक्षर

of the learned SDM in the light of the double bench decision of the Hon'ble HC as mentioned above, wherein the Hon'ble HC had laid down that:-

1) Section 5 is applicable only in case of a khas village and where the village is not a khas village, the office of Pradhan is local body in nature and the 'next heir' 'who is fit', is entitled to be appointed.

(2) Under Rule -3 SDO may be competent to ascertain the views of Jomebardi Rajat of the village, but SDO cannot proceed as if somebody has to be elected for the post of Pradhan.

(3) SDO is directed to ascertain the

आदेश पर
बारे में टिप्पणी
सं०
तारीख

4 फारम सं. 562

आदेश और पदाधिकारी का हस्ताक्षर

आदेश पर की गई कार्रवाई के
बारे में टिप्पणी तारीख के साथ

views of the Jamabandi Raisat only
for the purpose of 'ascertaining the
fitness of appellants'.

It is obvious that the proceedings
were not conducted as mandated
under Section - 6 r/w rule - 3
and it was conducted as if
there was an election when one
candidate had to be preferred
over other. The only question
left to be decided was whether
the appellant enjoys 'general
acceptability as to being fit for the
post of Madan' or not, however.
The concerned officials went on to
decide as to who among the two
had better claim, which is not
correct -

आदेश की क्रम सं० और तारीख	आदेश ओर पदाधिकारी का हस्ताक्षर	आदेश जारी बारे में दिनांक
	<p>Records of Board SPM is accordingly Set aside. He is directed to ascertain the general acceptability of the appellant separately/distinctly as to the fitness to hold the office by ascertaining the view of the senior persons and in compliance of various directives of Hon'ble H.C. within 4 weeks of the order.</p> <p style="text-align: center;">26/8/22</p>	<p>15922-01/9/22</p>