

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 745 OF 2004

BETWEEN

Smt. Ambika Devi W/o Shri Chhatar Singh, aged about 23 years,
resident of Village Bade Raveli, Tehsil Malkharoda District
Janjgir Champa (CG).

PETITIONER

A N D

The State of Chhattisgarh,
Through the Secretary Department of Woman & Child
Development, Mantralay, D.K.S. Building, Raipur (CG).

2. The Collector,
Janjgir Champa District Janjgir Champa (CG).

3. The Project Officer,
Woman and Child Development Project,
Malkharoda District Janjgir Champa (CG).

4. Gram Panchayat Bade Raveli,
Through its Sarpanch,
Gram Panchayat Bade Raveli, Janpad Panchayat Malkharoda.
District Janjgir Champa (CG).

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH AT BILASPUR**SINGLE BENCH:HON'BLE SHRI JUSTICE SANJAY K.
AGRAWAL**Writ Petition No. 745 of 2004

Petitioner : Smt. Ambika Devi w/o. Shri
Chhatar Singh, aged about 23
years, r/o. Village Bade Raveli,
Tahsil Malkharoda, Dist.
Janjgir Champa

VERSUS

NON-APPLICANT : State of C.G and others.

(Petition under Article 226/227 of the Constitution of India)

Present:

Mr. Shivang Dubey, counsel for the petitioner.
Mr. Siddharth Rathore, Dy. Govt. Advocate for respondents
No.1 to 3/State.
Mr A.N.. Bhakta, counsel for respondents No. 4.

ORAL ORDER
(Passed on 3-3-2015)

1. This writ petition has been filed questioning the legality and validity of the order dated 28-2-2004 (Annexure P/1) passed by respondent No.2/Collector Janjgir Champa whereby the appointment of the petitioner from the post of Anganwadi worker, which has been issued after completing all the formalities, has been cancelled.
2. The facts, in brief, are that the concerned block and upon recommendation dated 15-10-2003 of respondent No.2, respondent No.3 issued the appointment order (Annexure

P/6) appointing the petitioner as an Anganbadi worker. Subsequently, it appears that there were many flaws in the public announcement (Munadi) stipulated to be made while inviting applications for the post of an Anganbadi worker, 40% persons belonging to the members of Scheduled Caste were not aware of the vacancy and were not informed whether selection procedure was taking place for appointment of Anganbadi worker. Subsequently, after the appointment of the petitioner when the local people of the said village came to know about the appointment of the petitioner as Anganbadi workers, complaints were lodged. Acting upon the said complaints, the then President of Zila Panchayat Janjgir Champa dispatched a letter (Annexure-R/2) and upon that letter District Programme Officer, Woman and Child Development, conducted a detailed inquiry as to whether the prescribed guidelines dated 27-5-1996, 29-10-1996 and 6-1-2000 for selection of an Anganbadi worker were followed or not. The inquiry report was sent by the concerned District Programme Officer, Woman and Child Development, District Janjgir-Champa to the Collector, Janjgir-Champa for passing necessary orders upon which the Collector, Janjgir-Champa/respondent No.2 passed the impugned order for quashing the appointment of the petitioner. It is this order dated 28-1-2004 (Annexure A/1) which is put under challenge before this Court.

3. The petitioner has filed this writ petition stating that while quashing the appointment of the petitioner to the post of Anganbadi worker, she has not been afforded an opportunity of hearing as she was working as an Anganbadi worker from the date of her appointment i.e., 15-3-2004, therefore, the impugned order is illegal and bad-in-law and same deserves to be quashed.
4. Return has been filed opposing the writ petition holding that the appointment of the petitioner on the post of Anganbadi worker is contrary to the prescribed guidelines dated 27-5-1996, 29-10-1996 and 6-1-2000.
5. I have heard learned counsel for the parties and perused the documents available on record.
6. After hearing learned counsel for the parties and on perusal of the documents, it is clear vivid that the petitioner was appointed on the post of Anganbadi worker vide order dated 15-3-2004 passed by respondent No.4 (Annexure P/6) and thereafter vide order dated 28-1-2004 (Annexure P/1) the order of the appointment of the petitioner on the post of Anganbadi worker was quashed without giving any opportunity of hearing before passing the impugned order.
7. The fact remains that the petitioner was not afforded opportunity of hearing before passing the impugned order (Annexure P/1) by the Collector.
8. It is pertinent to mention here that their Lordships of the

Supreme Court in the matter of **Gajanan L. Pernekar vs. State of Goa and another (1999) 8 SCC 378**, highlighting the duty to give opportunity of show cause to adversely affected person before recalling administrative order in his favour, held as under:

"8. The manner in which the order dated 21-1-1999/22-1-1999 came to be made was, to say the least, not proper. The appellant was denuded of the benefits of the order dated 16-2-1994 unheard. There as been a breach of the principle of natural justice and a violation of fair play in action. The earlier order made in favour of the appellant as early as on 16-2-1994 was rescinded without giving any opportunity to the petitioner to show cause against it. Absorption of the appellant as Headmaster of Government High School by the order dated 16-2-1994 had not been put in issue through any proceedings by any party at any point of time. That benefit could not have been taken away from the appellant without affording him any opportunity of hearing, even where the absorption as Headmaster of the High School had been put in issue. The principles of natural justice have been respected in their breach...."

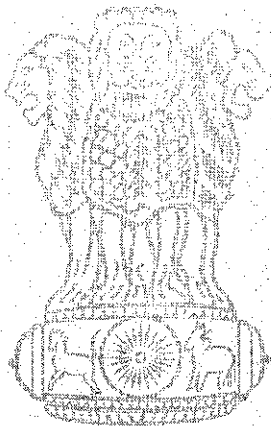
9. Since the respondent No.2/Collector had cancelled the order of appointment of the petitioner without affording an opportunity of hearing to him which is in teeth of law declared by their Lordships of the Supreme Court in aforesaid case Gajanan (supra), the impugned order dated 28-1-2004 (Annexure P/1) passed by the respondent

No.2/Collector, District Janjgir-Champa is hereby set aside.

The Collector, District Janjgir-Champa to hear the petitioner and thereafter to pass a reasoned order within 45 days from the date of receipt of certified copy of this order.

10. In view of the above discussion, the writ petition is finally disposed of.

Sd/-
Sanjay K. Agrawal
Judge



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