

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 491 of 2014

- Smt.Chandrakala Sahu, Wife of Omprakash Sahu, Aged About 24 years R/o Village Bhedi, Tahsil Doundilohara, P.S. Doundilohara, Civil and Revenue District Balod, (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Women and Child Development Department, Mantralaya, Mahanadi Bhawan, New Raipur (C.G.)
2. Commissioner Raipur Division, Raipur, (C.G.)
3. Collector, Balod, District Balod, (C.G.)
4. Aggregated Office, Women and Child Development Department, Doundilohara, District Balod, (C.G.)
5. Executive Officer Janpad Panchayat Doundilohara, District Balod, (C.G.)
6. Ku. Hemlata D/o Shri Bahur Singh, Aged About 21 Years, R/o Village Bhedi, Tahsil Doundilohara, P.S. Doundilohara, Civil & Revenue District Balod, (C.G.)

---- Respondents

For Petitioner	: Shri B.P. Banjare, Advocate
For Respondent/State	: Shri Chandresh Shrivastava, Panel Lawyer
For Respondent No.6	: Shri Jitendra Gupta, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

15/06/2015

1. Petitioner and respondent No. 6 applied for appointment to the post of Angan Badi Worker of Awaspara locality in Gram Panchayat, Bhedi, Tahsil Doundilohara, District Balod. By order dated 31/01/2012 petitioner was appointed on the said post, which was assailed by the respondent No. 6 by preferring an appeal before the Collector, Balod.
2. The appeal preferred by the respondent No. 6 was accompanied with an application under Section 85 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 and also under Section 5 of the Limitation Act for

condonation of delay in filing the appeal. The Collector, Balod allowed the appeal and set-aside the order of appointment passed in favour of petitioner and thereafter revision application preferred by the petitioner has also been dismissed by the Commissioner.

3. It is argued that the appeal was barred by limitation, however, the same was allowed without passing any order on the application filed by the respondent No. 6 for condoning the delay.

4. In the order passed by the Collector and the Commissioner it has been observed that in the selection process, the petitioner secured 44.88 marks whereas the respondent No. 6 secured 47.68 marks, thus the respondent No. 6 was more meritorious than the petitioner, however she was not offered appointment on the ground that she has not submitted the proof of resident of Awaspara locality. On perusal of record of the said authority it was found by the Collector that the respondent No. 6 had duly submitted the domicile certificate issued by the Naib Tahsildar, the caste certificate issued by Sub Divisional Officer, which have not been considered by the appointing authority. Thus, according to the appellate authority, the respondent No. 6 fulfilled all the eligibility criteria and was more meritorious, yet she was not appointed on the said post.

5. In the order-sheet of the appellate proceeding drawn by the Collector it is mentioned that the respondent No. 6 had preferred an application for condonation of delay, however, an order disposing the said application has not been passed by the Collector. In the considered opinion of this Court, the Collector having allowed the appeal after considering the matter on merits, the non-passing of an express order of condonation of delay would not vitiate the order. Had it been a case that the petitioner is more meritorious yet the appeal was allowed without first condoning the delay, the scenario would have been different.

6. While exercising discretionary jurisdiction under Article 226/227 of the Constitution, the Court is more concerned about the merits of the matter rather than mere technicalities. The Court would not come to the rescue of writ petitioner only on technical grounds even after finding that the writ petitioner is less meritorious than the other candidate.

7. This Court does not find any ground to interfere with the concurrent findings and orders passed by the appellate and revisional authority.

8. The writ petition fails and is hereby dismissed.

JUDGE