

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 351 of 2015**

Smt. Chandrakala Sahu Wife of Omprakash Sahu, aged about 25 years, R/o village Bhedi, Tahsil Doundilohara, P.S. Doundilohara, Civil and REvenue District Balod, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh, Through Secretary, Women and Child Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. Commissioner, Raipur Division, Raipur, Chhattisgarh.
3. Collector, Balod, District Balod, Chhattisgarh.
4. Aggregate Office, Women and Child Development Department, Doundilohara, District Balod, Chhattisgarh.
5. Executive Officer, Janpad Panchayat, Doundilohara, District Balod, Chhattisgarh.
6. Ku. Hemlata D/o Bahadur Singh, aged about 21 years, R/o village Bhedi, Tahsil Doundilohara, Civil and Revenue District Balod, Chhattisgarh.

---- Respondents

For Appellant	:	Ms. Hamida Siddique, Advocate.
For Respondent/State	:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri P. Sam Koshy, J.

Judgment on Board

Per Navin Sinha, Chief Justice

23/07/2015

1. The present appeal arises from order dated 15.6.2015 dismissing Writ Petition (S) No. 491 of 2014. The Learned Single Judge declined to interfere with the order of the Collector dated 1.10.2012 as affirmed in appeal by the Commissioner dated 2.1.2014 holding that the Appellant was not eligible to be appointed as Anganbadi Worker in preference to Respondent No. 6.

2. Learned Counsel for the Appellant submitted that according to the guidelines for appointment, the candidate had to be a resident of the same village and her name ought to have figured in the voters list. Respondent No. 6 had only applied for inclusion of her name in the voters list. Though, she had furnished a certificate from the Naib Tahsildar dated 19.8.2008 for being a resident of village Bhedi in question, she was in fact not a domicile of the

village and was therefore ineligible for appointment on both grounds. Further, there was no relaxation clause in the guidelines for appointment.

3. Learned Counsel for the State submits that the order of the Collector and the Commissioner are reasoned and require no interference. During the evaluation based on the marks to be allotted under eligibility conditions, Respondent No. 6 had secured 47.68 marks as compared to 44.88 of the Appellant.

4. We have considered the submissions on behalf of the parties.

5. Anganbadi Workers are not government servants. They are appointed as agents by the Government for dissemination of a welfare scheme with regard to pregnant women and children. The rigours of appointment on government posts that may apply under Article 14 of the Constitution is not applicable to these appointments which are governed only by administrative circulars as held in (2007) 11 SCC 681 (State of Karnataka v. Ameerbi) as follows:

"20. Anganwadi workers, however do not carry on any function of the State. They do not hold post under a statute. Their posts are not created. Recruitment rules ordinarily applicable to the employees of the State are not applicable in their case. The State is not required to comply with the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. No process of selection for the purpose of their appointment within the constitutional scheme exists....."

6. The Court will therefore only examine if there are any infirmities in the decision making process or blatant violation of the guidelines without justification. If any one of these grounds exist, it may warrant interference and not otherwise as the Government is the best judge regarding whom it wishes to appoint as an agent and considers more suitable for dissemination of its welfare scheme.

7. The eligibility guidelines provide inter alia that the person concerned must submit residence certificate from the Patwari. That Respondent No. 6 was a resident of the village Bhedi was placed by her on a certificate obtained from the Naib Tahsildar, senior in rank to Patwari. Considering clause 1.5 provided for alternate conditions, the fact that she did not produce any evidence with regard to her name being registered in the voters list and on the contrary submitted an application that she had applied for inclusion of her name, is not considered relevant as it was only an alternate condition of eligibility. In any event, it is a matter of common knowledge that often the name of a voter does not figure in the voters list or continues to figure even after the voter has left the area in question. The residence certificate shall therefore takes precedence over the voters list.

8. It is not the case of the Appellant that at any stage either before the Collector, Commissioner or the Writ Court, that the residence certificate dated 19.8.2008 issued to Respondent No. 6 by the Naib Tahsildar was wrong and mentioning any other place of residence of Respondent No. 6 different from village Bhedi as was mentioned in the certificate. Whether Respondent No. 6 was a resident of village Bhedi or not is sought to be raised on behalf of the Appellant at this fourth stage for the first time. The Appellant not having raised this issue either before the Collector, Commissioner or the Learned Single Judge, cannot be permitted to do so in appeal for the first time, the ground urged being a disputed question of fact.

9. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE