

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 198 of 2015**

Smt. Chitra Rathore W/o Shri Bhuneshwar Rathore, Aged about 28 years, R/o village Girwar, Post Office Lalpur, P.S. Gaurela, Tahsil Pendraroad, Civil & Revenue District Bilaspur, Chhattisgarh.

**---- Appellant****Versus**

1. State Of Chhattisgarh Through Secretary, Department of Panchayat Avam Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. The Additional Collector, Pendraroad, District Bilaspur Chhattisgarh.
3. The Chief Executive Officer, Janpad Panchayat, Gaurella, Tahsil Pendraroad, District Bilaspur, Chhattisgarh.
4. The Project Officer, Woman and Child Development Project, Gaurella, Distt. Bilaspur Chhattisgarh.
5. Smt. Ramkali W/o Shiv Prasad Rathore, Aged about 27 years, R/o village Girwar, Tahsil Pendraroad, District Bilaspur Chhattisgarh.

**---- Respondents**


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| For Appellants         | : Shri A.S.Rajput, Advocate.                             |
| For Respondents 1 to 4 | : Shri R.K.Gupta, Deputy Advocate General for the State. |
| For Respondent 5       | : Shri Prakash Mishra, Advocate.                         |

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**Hon'ble The Acting Chief Justice,**  
**Hon'ble Shri Justice P. Sam Koshy.**

**Order On Board****Per Navin Sinha, Acting Chief Justice****23/03/2015**

1. The present appeal arises from order dated 25.2.2015 allowing Writ Petition (S) No. 2423 of 2009. The Learned Single Judge set aside the order dated 13.2.2009 passed by the Director, Panchayat, which in turn had affirmed the order of the Additional Collector dated 19.6.2008, restoring the appointment of Respondent No. 5 as Anganbadi Worker.

2. Learned Counsel for the Appellant submits that the minimum qualification for appointment as Anganbadi Worker was class VIII pass. She fulfilled the requirement. There is no other allegation of ineligibility for appointment against her. The Appellant secured 46% marks in class VIII on merits while the private Respondent secured 57% after obtaining grace marks in one subject. The Joint Committee constituted by the Collector referred to the circulars dated 6.1.2000 and 27.5.1996. The circular dated 6.1.2000 nowhere provides for any preference to be given to persons having higher marks in class VIII if other things were equal. Learned Counsel for the Appellant fairly acknowledged that even before the Learned Single Judge, he had not produced the circular dated 27.5.1996. He therefore made a prayer for adjournment before us which we declined as we are of the considered opinion that the order under appeal even otherwise for reasons to be discussed by us calls for no interference.

3. Learned Counsel for the State and the private Respondents have opposed the appeal submitting that the order of the Learned Single Judge calls for no interference.

4. Today itself, in Writ Appeal No. 189 of 2015 (Smt. Lalkunwar v. State of Chhattisgarh) we have held that Anganbadi Workers are not government servants but agents of the governments for dissemination of a welfare scheme for pregnant women and children. The scope for judicial review with regard to them shall be restricted for examining arbitrariness in selection, violation of natural justice etc. The standards of scrutiny cannot be the same as in government appointments.

5. The policy of giving preference to a candidate if other parameters between two competing candidates are the same, is a well accepted method of selection. Before the Additional Collector, it was the case of the Appellant herself that the

private Respondent had higher marks in class VIII. The Additional Collector and the Director, Panchayat have erred in holding that the requirement was only class VIII pass and hence the question of any preference did not arise. As noticed above, the circular dated 27.5.1996 has not been placed before the authorities and neither before us. Even otherwise, we have held that the policy of preference between two competing candidates, other things being equal, is a well accepted practice.

6. The fact that the private Respondent may have obtained higher percentage by inclusion of grace marks is hardly relevant so long as there is a provision in the examination scheme for providing grace marks. The conclusion by the Additional Collector and the Director, Panchayat, that the Appellant had been trained and acquired work experience is hardly relevant when the primary job of an Anganbadi Worker is not skilled but distribution of food-grains and other social facilities at the center only.

7. We therefore find no reason to interfere with the order under appeal. The appeal is dismissed.

**ACTING CHIEF JUSTICE**

**JUDGE**