

HONOURABLE SRI JUSTICE S.RAVI KUMAR

WRIT PETITION No.10739 OF 2003

Dated 25-11-2015

Between:

Ch.Susheela.

..Petitioner.

And:

The Director of Women and Child Welfare, Government of Andhra Pradesh, Hyderabad and others.

..Respondents.

-
-
-

HONOURABLE SRI JUSTICE S.RAVI KUMAR

WRIT PETITION No.10739 OF 2003

ORDER:

This writ petition is filed to declare selection of 5th respondent to the post of Anganwadi worker of Narayanpuvalasa village, Bobbili Mandal, Vizianagaram District as illegal, arbitrary and consequently to direct first respondent to consider the candidature of petitioner for appointment to the post of Anganwadi Worker to Anganwadi Centre at Narayanpuvalasa village, Bobbili Mandal, Vizianagaram District.

According to the affidavit of the petitioner, second respondent invited applications from eligible candidates for appointment to the post of Anganwadi worker at Narayanpuvalasa, for which, she applied to the said post and she stated that she is a graduate and she has been working as E.C.E. Instructor at Narayanpuvalasa since 1995. She further contended that she passed B.A. in the year 1991 whereas 5th respondent has not even passed 10th Class but the second respondent has not considered candidature of petitioner but

appointed 5th respondent as Anganwadi worker. She also stated that as the 5th respondent has not possessed 10th Class and she passed B.A., the respondent ought to have considered her candidature in preference to that of 5th respondent. She further contended that 5th respondent is not a native of village of Narayanpuvalasa and she is native of Kasindoravalasa and there is no justifiable reason on the part of officials in appointing 5th respondent and therefore, selection of 5th respondent as Anganwadi Worker is not legal and valid and prayed to declare the action of second respondent as illegal and arbitrary.

Respondents 1 to 4 filed their counter disputing the affidavit allegations of the petitioner, contending that as per the minutes of the meeting dated 26-7-2002, the minimum requisite qualification prescribed for Anganwadi worker is VIII class and if no such person is available, less educated person can be appointed as Anganwadi worker in Tribal Integrated Child Development Service Scheme. It is also contended in Urban Integrated Child Development Scheme Project, only X class passed candidates are to be appointed as Anganwadi workers as per circular Memo No.11388/K3/02 dated 2-11-2002. It is also contended that from the letter addressed by Mandal Revenue Officer, Bobbili and Revenue Divisional Officer, Parvathipuram, 5th respondent is a resident of Narayanappavalasa and as there is no political or physical demarcation between Narayanappavalasa and Kasindoravalasa villages, as the houses of both villages are mingled and appears as one village, therefore, the allegation that 5th respondent belongs to different village is baseless. It is also contended in the counter as the minimum requisite qualification is only VIII class for appointment to the post of Anganwadi Worker, candidature of 5th respondent was considered.

It is also contended that the education qualification is not the only criteria to be considered but all other aspects, such as, economical conditions of the candidate, age, participation in mother's committee and other relevant aspects, for appointing a Anganwadi Worker. It is further stated that though petitioner passed B.A., her candidature was not considered because she is not participating in the activities of mothers committee and further husband of petitioner is a Government employee and she is financially sound. It is also contended in the counter that there are allegations against the petitioner while she was working as instructor in Early Child Education centre for not running the centre properly. It is contended that for these reasons, her case was not considered and as the 5th respondent is a helpless and poor woman, she was appointed as Anganwadi Worker in the month of August, 2002 and since then, she is regularly working to the

satisfaction of Mothers' committee and prayed for dismissal of the writ petition.

For this, reply affidavit is filed by the petitioner stating that the circular memo issued on 2-11-2002 is in respect of tribal area and in other areas, minimum qualification is X class and therefore, that circular memo is not applicable. It is further stated that the village is defined under Section 3 of the Panchayatraj Act and it has to be notified by the Government and both Narayanappavalasa and Kasindoravalasa have been defined under Section 3 of the Panchayatraj Act and even as per the revenue records, both are separate revenue villages and both are different Grampanchayats. It is further contended that unless a candidate possess minimum educational qualification so as prescribed, the question of taking other criteria into consideration does not arise and the discretion can be exercised only in case, the person is qualified and discretion cannot be extended to appoint a unqualified candidate. It is further stated that the allegation that there are complaints against the petitioner are false and that she was not given any notice nor any enquiry has been conducted about those allegations. It is further contended that entire selection was over on 30-9-2002 and the allegations leveled against the petitioner are only after the selection process. It is further contended that all the allegations are false and they are only made at the instance of 5th respondent. It is further contended that husband of 5th respondent was earlier sarpanch of Kasindoravalasa Grampanchayat and running a kirana shop and she is not a helpless poor woman, as contended in the counter. It is further contended that 5th respondent was issued a pink ration card showing her residence with door No.3-2 of the village since 20 years and she was shown in the voters list of 1999 as resident of Kasindoravalasa grampanchayat.

Heard both sides.

Advocate for petitioner submitted that complaints against the petitioner was created subsequent to the proceedings only to support the illegal action of the respondents in appointing 5th respondent. He further contended that memo dated 2-11-2002 is also subsequent to selection process and it was only relied to deny the claim of petitioner. He further submitted that as per the Government orders and instructions 10th class is the minimum qualification for Anganwadi Worker even till today the same requirement is not changed and only in case of candidates belonging to SC and STs., this education qualification is relaxed and that benefit cannot be extended to 5th respondent. It is further submitted that even the circular can be applied only in case where there are no candidates possessing required education qualification but here the petitioner is

a B.A. graduate, therefore, applying that circular to the 5th respondent, does not arise. He further submitted that second respondent intentionally disqualified the petitioner and appointed 5th respondent as Anganwadi Worker and therefore, action of second respondent has to be declared as illegal and consequently, a direction be given to 2nd respondent to appoint petitioner as Anganwadi Worker.

On the other hand, advocate for respondents 1 to 4 submitted that the candidature of petitioner is not considered for the reason that there are allegations against her, that she did not properly run the centre while working as Mothers committee and that her husband is a government employee and she is financially sound and that second respondent has not committed any error in selecting 5th respondent.

Along with the counter, respondents have filed the complaints received against the petitioner besides proceedings of Grampanchayat dated 26-7-2002 and the guidelines for operationalising effective convergence which is the scheme for Anganwadi Workers..

Fifth respondent has not filed any counter. Advocate for 5th respondent submitted that 5th respondent is still continuing as Anganwadi Worker from the date of her appointment without any remarks.

Now the point that would arise for my consideration is whether the second respondent has committed any procedural irregularity or illegality in appointing 5th respondent.

POINT:

The main contention of the petitioner is that she is a B.A. graduate and that she passed B.A. in the year 1991. She has not filed any document before this court to show that she is a B.A. Graduate and obtained such degree in the year 1991. According to petitioner, the minimum qualification for Anganwadi Worker is 10th class but 5th respondent has possessed only VIII class and she is not qualified for the post of Anganwadi Worker. Respondents 1 to 4 along with their counter filed the Transfer Certificate relating to 5th respondent issued by Z.P. High School, Bandaluppi according to which, 5th respondent studied 10th class in the said school under admission No.721 of 79 dated 26-6-1979. As seen from the Transfer Certificate, when the 5th respondent left the school, she was in 10th class. Except contending that minimum qualification is 10th class, the petitioner has not

produced any document to show that minimum qualification is 10th class. Second respondent specifically contended in its counter, that as per the minutes of the meeting dated 26-7-2002, requisite minimum qualification prescribed for Anganwadi Worker is VIII class, therefore, burden is on the petitioner to show contrary to the plea taken by the 2nd respondent with regard to minimum education qualification.

According to petitioner the circular memo No.11388/K3/02 dated 2-11-2002 is applicable to tribal area and the education qualification referred in it cannot be applied to 5th respondent. It may be relevant to read the said Memo which reads as follows:

“All the Project Directors and Regional Deputy Directors in the State are informed that there is no rule to the extent that only X class pass candidates are to be appointed as AWW in rural and Tribal ICDS Project. The only conditions stipulated for the appointment of AWW is that she should be a local worker acceptable in the local community. The minimum qualification prescribed is VIII class. If no such person is available less educated can be employed as AWW in Tribal ICDS Project. In urban ICDS Projects, only matriculate passed candidates are to be appointed as AWW.

As per the Government of India guidelines only local women should be appointed as AWW the Project Directors should follow this rule strictly in selection of AWW from the local community and no outsider should be appointed in violation of ICDS norms.

They are requested to acknowledge the receipt of this memo.”

From a reading of the above memo, it is clear minimum education qualification is VIII class only in case of tribal ICDS Project that VIII class minimum qualification can be relaxed and less educated person can also be appointed. As per this memo, AWW be acceptable to the local community.

The petitioner has not placed any material to support her contention with regard to educational qualification contra to one indicated in the Memo referred above.

One of the contention of respondents is that there are complaints against petitioner and copies of complaints are enclosed to counter.

As seen from the complaints filed along with counter, they are dated 26-7-2002 and one complaint is signed by about 45 villagers informing ICDS Project Director that petitioner has not run the center in a proper way and they are all against for her selection as Anganwadi Workers.

Considering such complaints and the fact that the husband of the petitioner is a government employee, second respondent has not considered the candidature of petitioner for the post of Anganwadi Workers.

On a scrutiny of material, I do not find any illegality or irregularity or procedural violation by the second respondent in not selecting the petitioner as Anganwadi workers.

For these reasons, this Writ Petition is dismissed as devoid of merits. No costs.

As a sequel to the disposal of this writ petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI KUMAR

Dated 25-11-2015.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

WRIT PETITION No.10739 OF 2003

Dated 25-11-2015

Dvs