

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6259 of 2008

- Smt. Jyoti Sahu W/o Lavanidhar Sahu,aged about 25 years, R/o Village Raseda, Tahsil Basna, District. Mahasamund (CG)

---- Petitioner

Versus

1. The State Of Chhattisgarh, Through the Secretary, Department of Panchayat and Social Welfare, DKS Bhawan, Raipur (CG)
2. The Director Panchayat, Panchayat, Raipur, District Raipur (CG)
3. Additional Collector, Mahasamund District Mahasamund (CG)
4. Chief Executive Officer, Janpad Panchayat, Basna, District Mahasamund (CG)
5. Project Officer, Women and Child Welfare Branch, Basna, District Mahasamund (CG)
6. Smt. Heeramoti W/o Shiv Prasad Goda, R/o Village Basna Tahsil Basna Distt. Mahasamund (Cg)
7. Shri A.N. Khakha, Additional Collector, Mahasamund, District Mahasamund (CG)

---- Respondent

For Petitioner	Mr. R. Pradhan, Advocate
For Respondent/State	Mr. Shashank Thakur, Government Advocate
For Caveator	Mr. S.S. Rajput, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

4/4/2016

1. Heard.
2. The petitioner is aggrieved by the order passed by the

Additional Collector, Mahasamund on 24.04.2007 and the order passed by the Director (Panchayat) on 30.09.2008 (Annexure P/2 & P/1 respectively), whereby, the Additional Collector, allowed the appeal preferred by respondent No.06 and the Director (Panchayat) dismissed the petitioner's revision application and consequently, the petitioner's appointment as Aanganbadi Worker of Aanganbadi Centre, Rasoda, Tehsil and Block Basna, District Mahasamund, has been set-aside.

3. In a duly drawn selection process, the CEO, Janpad Panchayat, Basna passed an order on 13.11.2006, appointing the petitioner as Aanganbadi worker. The said order was challenged by respondent No.6 by preferring an appeal before the Additional Collector, Mahasamund. The Additional Collector allowed the appeal on the ground that under the State Government's Circular dated 06.01.2000, a Scheduled Caste/Scheduled Tribe woman candidate is to be accorded preference in consideration for appointment as Aanganbadi worker, therefore, respondent No.6, who belongs to Scheduled Tribe Category, was entitled to preference over the petitioner, who belongs to OBC Category. This order has been maintained by the Director (Panchayat).
4. Indisputably, the petitioner having VIII standard pass and being a local candidate as also being a member of BPL family, was fully eligible for appointment as Aaganbadi worker. Respondent No.6 was also eligible for

consideration of her name as she is also VIII standard pass and belongs to Scheduled Tribe category, however, she is not a member of BPL family

5. Clause 4 of the Circular dated 06.01.2000, governing appointment to the post of Aanganbadi worker, provides that a Scheduled Caste or Scheduled Tribe woman, who has passed the qualifying examination from any School run by the Tribal Welfare Department particularly a Ashram School should be accorded preference. Clause 5 of the Circular thereafter again provides preferences to different classes in the order mentioned therein. The first in the order of preference is the widow or destitute woman and then, members belonging to the BPL family and thereafter, the persons belonging to the Scheduled Caste or Scheduled Tribe category.
6. There being no evidence on record to prove that respondent No.6 had passed her qualifying examination from a school run by the Tribal Welfare Department, Clause 4 of the Circular has no application, therefore, the preference has to be determined in the order provided in Clause 5 of the Circular.
7. The petitioner as well as respondent No. 6 being not a widow or destitute women, the first order of preference in Clause 5 is not applicable.
8. The next order of preference in the said clause is to a member belonging to BPL family and thereafter, comes

Scheduled Caste or Scheduled Tribe women.

9. Admittedly, respondent No.6 is not a member belonging to BPL family, whereas, the petitioner has duly submitted a certificate to the effect that she is a member of and belongs to BPL family. Thus, the stage of preference to be accorded to Scheduled Caste/Scheduled Tribe candidates has not at all arrived, because, prior to that, the preference to be accorded to a member belonging to BPL family exhausts the selection process, because, an eligible candidate belonging to BPL family i.e. the petitioner was available.

10. In the considered opinion of this Court, the Additional Collector as well as the Director (Panchayat) have not properly appreciated and applied the provisions of the Circular dated 16.01.2000 and thereby, misguided themselves in considering the matter in its true perspective. There being no misapplication of the Circular, the orders deserve to be set-aside.

11. Accordingly, the writ petition is allowed and the orders dated 24.04.2007 and 30.09.2008 (Annexure P/2 & P/1 respectively) are set-aside. Resultantly, the petitioner shall continue as Aanganbadi Worker of Aanganbadi Centre, Rasoda, Tehsil and Block Basna, District Mahasamund.

Sd/-
Judge
(Prashant Kumar Mishra)

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