

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4290 of 2014

1. Smt. Mohini Saxena D/o Ramjilal Aged About 36 Years W/o Shri Kesh Kumar Saxena, by caste Mahar (Scheduled Caste) R/o Village Birgudi Tahsil Nagari P.S. Sihava Distt. Dhamtari, Civil & Revenue Distt. Dhamtari C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Women & Child Development DKS Bhawan, Raipur C.G.
2. The Commissioner, Raipur Division, Distt. Raipur C.G.
3. The Collector Dhamtari, C.G.
4. The District Programme Officer Department Of Women & Child Development Dhamtari, Distt. Dhamtari C.G.
5. Project Officer Ekikrit Bal Vikas Seva Pariyojana Sihava Distt. Dhamtari C.G.
6. Smt. Shashi Kashyap W/o Shri Dakendra Kashyap R/o Village Birgudi Tahsil Nagari P.S. Sihava Distt. Dhamtari Civil & Revenue Distt. Dhamtari C.G.
7. Smt. Laxmi Bhansare R/o Village Birgudi Tahsil Nagari P.S. Sihava Distt. Dhamtari Civil & Revenue Distt. Dhamtari C.G.

---- Respondent

For Petitioner	Shri Anil Mourya, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

21/03/2016

1. In the recruitment process for appointment of Aanganbadi Worker of village Birgudi the petitioner applied for the post along with the respondents No.6 & 7. Petitioner was appointed on 6-10-2008. Against which complaints were made by the said respondents. Petitioner's appointment was cancelled on the ground that at the time of recruitment she did not furnish the domicile certificate issued by the competent authority.
2. During the appellate proceeding before the Additional Collector, Dhamtari, the petitioner submitted the certificate issued by the competent officer. It was the stand of the respondents No.6 & 7 that the petitioner has left the village Birgudi after her marriage in some other village, therefore, her name was not included in the ration card issued in the name of her father Ramjilal nor she was included in the voter list of village Birgudi. The petitioner did not submit the certificate issued by the competent officer to substantiate that she is the resident of village Birgudi. Such certificate was submitted during the appeal proceeding.
3. By order dated 27-9-2010 the Additional Collector dismissed the appeal and the said order has been affirmed by the Commissioner, Raipur Division, Raipur, on 23-4-2014.
4. It appears, on the date of recruitment, the petitioner's name was not included in the voter list of the village nor she submitted the residence certificate issued by the competent officer. Thus, she was not eligible to be appointed on the post of Aanganbadi Worker of village Birgudi.

5. In view of the law laid down by the Supreme Court in **B.K. Muniraju v. State of Karnataka and Others**¹, wherein it has been held that a writ of certiorari can only be issued in exercise of extraordinary jurisdiction which is different from appellate jurisdiction. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their jurisdiction causing grave miscarriage of justice. In regard to a finding of fact recorded by an inferior tribunal or authority, a writ of certiorari can be issued only if in recording such a finding, the tribunal/authority has acted on evidence which is legally inadmissible, or has refused to admit an admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. It is needless to mention that a pure error of fact, however grave, cannot be corrected by a writ.
6. In view of the aforesaid facts and circumstances of the case, the concurrent findings recorded by the Additional Collector and the Commissioner, Raipur Division do not call for any interference.
7. As a sequel, the writ petition, *sans* merit, is liable to be and is hereby dismissed. No order as to costs.

Sd/-

Judge

Gowri

Prashant Kumar Mishra

¹ (2008) 4 SCC 451