

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3470 OF 2016**

Smt. Manjeeta Vishwakarma W/o Vijay Kumar Vishwakarma, aged about 32 Years R/o Village Kusmusi, Tahsil Bhaiyathan District Surajpur Chhattisgarh

---- **Petitioner****Versus**

1. State of Chhattisgarh Through the Secretary, Department of Panchayat and Rural Development, Mahanadi Bhawan, Naya Raipur Chhattisgarh
2. The Commissioner, Surguja Division Distirct Surguja Chhattisgarh
3. The Collector Surajpur, District Surajpur Chhattisgarh
4. The Project Officer, Unified Child Development Project, Bhaiyathan (Chandramedha) District Surajpur Chhattisgarh
5. Chief Executive Officer, Janpad Panchayat Bhaiyathan, District Surajpur Chhattisgarh
6. Smt. Rooma Tiwari W/o Manish Kumar aged about 25 Years R/o Village Kusmusi, Tahsil Bhaiyathan, District Surajpur Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Ashok Kumar Shukla, Advocate
For Respondent-State	:	Mr. Raj Kumar Gupta, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****08/08/2016**

Heard on admission.

1. This petition under Article 226 of the Constitution of India filed by the petitioner seeking quashment of impugned orders dated 28/05/2014 and 06/06/2016.
2. Learned counsel for the petitioner submits that even if it has been found that the certificate of experience was false, there is no clinching material collected during inquiry to prove that the false document was

submitted by the petitioner. He further submits that according to the petitioner, it is the outcome of conspiracy hatched by respondent No. 5 seeking cancellation to her appointment. Next submission of learned counsel for the petitioner is that the Collector himself found that the petitioner has not submitted any false/forged certificate along with the application. The appointment of the petitioner was not liable to be cancelled and it is contended that whatever has been paid to the petitioner could not be recovered from the petitioner as it would amount to severe hardship. Last submission of the learned counsel for the petitioner is that according to the petitioner even if those six marks are not awarded to the petitioner towards experience, the petitioner would be selected for the said post.

3. A perusal of the impugned order as well as the order passed by the Collector shows that the petitioner has not raised any contention much less sought any decision on the ground that even if weightage of experience are not granted to her, the petitioner is meritorious and most successful candidate. This ground is taken by the petitioner for the first time in the writ petition. It is issue purely on facts and it has not been raised in proceedings before the Collector as well as the Commissioner, therefore, this Court would not allow to raise a new issue of fact in this writ petition for the first time.

4. The certiorari jurisdiction of this Court is distinct from an appellate or revisional jurisdiction. It is not a case that despite such a submission having being made and substantiated with material on record, it was altogether ignored from the consideration or finding recorded without due application of mind or suffering from perversity or patent illegality in the sense that law applicable to the facts were not applied. Therefore, this ground cannot be allowed to be raised in the writ petition, for the first time.

5. The Collector as well as the Commissioner both have recorded finding

of fact that certificate of experience which was found in the record of selection and on the basis of which, six marks awarded to the petitioner was forged and false document because there is no Gram Panchayat named as Askheratola in existence.

6. Learned counsel for the petitioner could not satisfy this Court by producing any notification of the Government establishing a Gram Panchayat in the name of Askheratola within the jurisdiction of Janpad Panchayat Jashpur. Therefore, the aforesaid finding of fact is unassailable. The result is obvious. The false experience certificate was appended to the record only to extend undue benefit to the petitioner.

7. The petitioner seeks to invoke equity by submitting that rightly and wrongly she continued to work as *Mini Aganwadi Worker* and the order of recovery will result in severe hardship. But for the allegation of false certificate of experience, this Court could have granted some relief to the petitioner. But if such a relief is granted, it would amount to putting premium on fraud. Once the finding that the certificate of experience was found to be forged and false is found unassailable, any claim against recovery of amount collected by the petitioner is liable to be rejected as equity does not favour the petitioner.

8. In view of the above, I do not find any merit in the petition. It is dismissed accordingly.

Sd/-

(Manindra Mohan Shrivastava)
Judge