

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.253 of 2016**

Smt. Pushpa Lata Gomasta, aged 49 years, W/o Shri K. Gomasta,
R/o Village Anjora, Tahsil and District Durg, Chhattisgarh

---- Appellant**versus**

1. State of Chhattisgarh through the Secretary Social and Welfare Department Mahanadi Bhawan, New Raipur Chhattisgarh P.S. Rakhi
2. Zilla Panchayat, Durg through the Chief Executive Officer, Zilla Panchayat Durg, Chhattisgarh
3. The Janpad Panchayat, Durg, through the Chief Executive Officer, Janpad Panchayat Durg, Chhattisgarh
4. Nohar Singh Deshmukh, aged about 49 years, S/o Dwarka Prasad Deshmukh, Shikchha Karmi Verg-3, Middle School Birejhar, Block Dhamdha, Tahsil and District Durg, Chhattisgarh
5. Shyamabai Deshmukh, aged 59 years, W/o Dwarka Prasad Deshmukh, Ex-Member of Selection Committee & Ex-President of Gram Panchayat, Nagpura Tahsil and District Durg, Chhattisgarh
6. Vijay Laxmi Tamrakar, D/o Shri Pitamber Tamrakar, R/o Village & Post Bodegaon, Shikchha Karmi Verg-3

---- Respondents

For Appellant	:	Shri H.B. Agrawal, Senior Advocate with Shri U.R. Koshaley, Advocate
For State/Respondent No.1	:	Shri Yashwant Singh Thakur, Deputy Advocate General

Hon'ble Shri Deepak Gupta, Chief Justice**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****Per Deepak Gupta, Chief Justice****27/6/2016**

1. Heard on I.A. No.1 of 2016 for condonation of delay in filing the appeal. On due consideration, the interlocutory application is allowed and delay of 11 days in filing the appeal is condoned.
2. This appeal is directed against the order dated 15.2.2016 passed by the Learned Single Judge in Writ Petition (S) No.4679 of 2007, whereby the writ petition filed by the Petitioner/Appellant herein has been dismissed as being without merit.
3. In the year 1998, 102 posts of Shiksha Karmi Grade-III were

advertised by Janpad Panchayat, Durg for being filled-up. The Petitioner along with other candidates applied for the said post and appeared in the selection process conducted by the Education Committee of the Janpad Panchayat, Durg. The select-list was issued on 4.9.1998. The Petitioner did not find place in the select-list.

4. The Petitioner, after about 16 months of issuance of the select-list, filed an appeal before the Collector, which appears to have been transferred to the Additional Collector. It was urged before the Additional Collector that the Petitioner was deliberately awarded less marks in the interview to deprive her of the appointment and candidates awarded lesser marks than her were appointed. The Additional Collector, after condoning the delay in filing the appeal, remitted the matter to the Janpad Panchayat, Durg for consideration of the Petitioner's case for appointment only if she had secured higher marks than the last selected candidate in her category. At the same time, the Additional Collector observed that this should not affect the rights of Respondents No.4, 5 and 6. This order was accepted by the Petitioner and she did not challenge the same.

5. The Education Committee of the Janpad Panchayat, Durg reconsidered the case of the Petitioner on 9.8.2001 and came to the conclusion that the Petitioner had applied in the general category for women. She had secured only 50.11% marks and the last selected candidate had obtained 57.96% marks and, therefore, Petitioner's non-selection was not illegal.

6. Now, it is being urged before this Court that the Additional Collector gravely erred in not ordering for re-checking of the marks of the Petitioner and it is claimed that she should have been awarded higher marks. This was the plea raised before the Additional Collector which was rejected by him. After the rejection, the Petitioner did not challenge the order of the

Additional Collector, but she filed the writ petition before this Court only after the Education Committee of the Janpad Panchayat on reconsideration of the case of the Petitioner found her not eligible for appointment. The Petitioner has no right to approbate and reprobate the orders passed in her case at her own will. The Petitioner should have availed of remedy of appeal available to her under the law against the order of the Additional Collector.

7. We find no merit in the writ appeal. It is accordingly dismissed.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay K. Agrawal)
JUDGE