

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2828 of 2016**

- Devi Shakti Mahila Swa Sahayata Samuh Through The Secretary, Smt. Laxmi Sahu W/o Shri Devlal Sahu, Aged About 32 Years, R/o Nageshwar Nagar Birgaon, Police Station Urla, Civil & Revenue District Raipur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (Chhattisgarh)
2. Sub Divisional Officer, Raipur, District Raipur (Chhattisgarh)
3. The Block Education Officer, Dharsiva, District Raipur (Chhattisgarh)
4. Ekta Mahila Swa Sahayata Samuh, Through The Secretary Sunita Verma Ward No. 32, Nagar Nigam Birgaon, Police Station Urla, Civil & Revenue District Raipur (Chhattisgarh)
5. The Commissioner, Municipal Corporation, Birgaon, District Raipur (Chhattisgarh)
6. Government Boys Primary School Birgaon, Through The Principal, Police Station Urla, Civil & Revenue District Raipur (Chhattisgarh)

---- Respondents

For Petitioner
For Respondent-State
For Respondent No.5

Shri Prateek Sharma, Advocate
Shri R. K. Mishra, Dy. AG
Shri R. S. Baghel, Advocate

Shri Alok Chandrawanshi, Commissioner,
Municipal Corporation, Birgaon and Shri
Upendra Singh Kshatri, Block Education
Officer, Dharsiva are also present.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

23/11/2016

1. The issue brought before this Court pertains to the allotment for supply of mid day meal to Government Primary Boys School, Birgaon and Government Primary Girls School, Birgaon (hence referred to as 'Boys School and Girls School' respectively).
2. For the year 2012-13, the petitioner was awarded the subject work for the Boys School, however, in draw of lots, the petitioner was chosen to supply mid day meal for the Girls School. For some reason or the other including filing of petitions before this Court bearing WPC Nos.1464/2013, 1611/2014 and 1612/2014, the results of draw of lots were not executed and the petitioner continued to supply mid day meal to the Boys School. In the meanwhile, the School Education Department executed its Rationalization Policy, consequently the Girls School was merged with the Boys School. Thus, the existence of the Girls School ceased. However, the petitioner continued to supply mid day meal to the merged school. On 23.09.2016, WPC Nos.1611/2014 & 1612/2014 came to be disposed of refusing to interfere with the order dated 08.08.2014 passed by the District Education Officer and the order dated 11.08.2014 passed by the Municipal Council directing drawl of lots. This Court also observed that no entity has the right to continue to supply mid

day meal for an indefinite period.

3. It appears, after the said order, the Block Education Officer, Dharsiva passed the impugned order dated 19.10.2016 giving effect to the result of draw of lots, which took place in the year 2014. Since in the said draw, the petitioner was chosen to supply mid day meal to the Girls School, the impugned order mentioned as if the said Girls School is still in existence and the petitioner is entitled to supply mid day meal for the said School. On the other hand, one Ekta Mahila Swa Sahayata Samuh, the respondent No.4 was chosen to supply mid day meal to the Boys School. There being no separate existence of the Girls School, the petitioner was not allowed to supply mid day meal to the merged school, therefore, it had to prefer this writ petition.
4. It is argued that the impugned order has been passed without issuing any show cause notice or giving any opportunity of hearing to the petitioner, therefore, it deserves to be set aside being in violation of Article 14 of the Constitution of India. It is also argued that the petitioner being chosen to serve the Girls School, it is entitled to supply mid day meal either to the Girls School or to the merged school as a whole.
5. On the contrary, learned State counsel and learned counsel appearing for the respondent No.5 on advance notice would submit that even though there is mistake in the impugned order by making reference to the Girls School, Birgaon, the petitioner

has no right to continue in view of the subsequent development, wherein the Girls School has been merged in the Boys School.

6. Having heard learned counsel for the parties and on perusal of the papers, it appears, the arrangement under the impugned order is only for a period 01.11.2016 to 31.03.2017. Since the order has been passed in the mid sessions without giving any opportunity of hearing to the petitioner, ends of justice would be served if the petitioner is allowed to supply mid day meal to the merged entity till 31.03.2017 and thereafter the Competent Authority shall decide the entitlement to supply mid day meal afresh, in accordance with the extant Government Policy. It is ordered accordingly.
7. It is made clear, if the petitioner is otherwise not entitled to supply mid day meal for any other reason, it will be open for the respondents to pass appropriate orders after providing opportunity of hearing to the petitioner.
8. The writ petition is accordingly disposed of.

Sd/-
JUDGE
PRASHANT KUMAR MISHRA

Nirala