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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 7108 of 2010**

Smt. Hans Kumari, W/o Teejram Yadav, aged about 30 years,
R/o Village Lankahuda, Gram Panchayat Sohagpur, Janpad
Panchayat Bilaigarh, District Raipur (C.G.)

---- Petitioner**Versus**

1. Santoshi Manikpuri, W/o Anand Das Panka, R/o Village Lankahuda, Gram Panchayat Sohagpur, Janpad Panchayat, Bilaigarh, District – Raipur (C.G.)
2. Devki Bai, W/o Bathuwa Das Panka, R/o Village Lankahuda, Gram Panchayat Sohagpur, Janpad Panchayat, Bilaigarh, District Raipur (C.G.)
3. Sant Bai, W/o Batu Das Panka, R/o Village Lankahuda, Gram Panchayat Sohagpur, Janpad Panchayat Bilaigarh, District- Raipur (C.G.)
4. Dilemati, W/o Haricharan Marar, R/o Village Lankahuda, Gram Panchayat Sohagpur, Janpad Panchayat, Bilaigarh, District Raipur (C.G.)
5. Chief Executive Officer, Janpad Panchayat Bilaigarh, District – Raipur (C.G.) (wrongly mentioned as District Kabirdham)
6. Project Officer, Ekikrit Women & Child Development Project, Bilaigarh, District- Raipur (C.G.)
7. District Planning Officer, Women & Child Development, Raipur, District Raipur (C.G.)

---- Respondents**Writ Petition (227) No. 982 of 2011**

Santoshi Manikpuri, W/o Anand Das Panka, aged about 31
years, R/o Landahuda, Gram Panchayat Sohagpur, Janpad
Panchayat Bilaigarh, District Raipur (C.G.)

---- Petitioner**Versus**

1. Smt. Hans Kumar, W/o Teej Ram Yadav, aged about 30 years,
2. Devki Bai, W/o Bathuwa Das Panka,

3. Sant Bai, W/o Batu Das Panka

4. Dilemati, W/o Haricharan Marar

Respondents No. 1 to 4 are R/o Village Lankahuda, Gram Panchayat Sohagpur, Janpad Panchayat, Bilaigarh, District Raipur (C.G.)

5. Chief Executive Officer, Janpad Panchayat Bilaigarh, District – Raipur (C.G.) (wrongly mentioned as District Kabirdham)

6. Project Officer, Ekikrit Women & Child Development Project, Bilaigarh, District- Raipur (C.G.)

7. District Planning Officer, Women & Child Development, Raipur, District Raipur (C.G.)

8. State of Chhattisgarh, Through the Secretary, Woman and Child Development Department, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.)

---- Respondents

For Petitioner : Shri Goutam Khetrapal, Advocate in W.P. (227) No. 7108/2010

For Petitioner : Smt. Savita Tiwari, Advocate in W.P. (227) No. 982/2011

For Respondent No.1 : Shri Goutam Khetrapal, Advocate in W.P. (227) No. 982/2011

For Respondnet No.1 : Smt. Savita Tiwari, Advocate in W.P. (227) No. 7108/2010

For State : Shri Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/12/2017

(1) Since common question of law and fact is involved in both the writ petitions, they are being disposed of by this common order.

(2) Smt. Santoshi Manikpuri, petitioner in W.P. (227) No. 982/2011 was appointed as Aanganbadi Karyakarta/Sahayika for Gram

Lankahuda by Chief Executive Officer, Janpad Panchayat, Bilaigarh by order dated 28.08.2006, that was challenged by Smt. Hans Kumari, petitioner in W.P. (227) No. 7108/2010, before the Additional Collector, Baloda Bazar, District Raipur. The Additional Collector, by its order dated 31.05.2008, allowed the appeal preferred by Smt. Hans Kumari, petitioner in W.P. (227) No. 7108/2010 and set-aside/quash the order of Chief Executive Officer, Janpad Pachayat, Bilaigarh appointing Smt. Santoshi Manikpuri, petitioner in W.P. (227) No. 982/2011 as Aanganbadi Karyakarta/Sahayika for Gram Lankahuda.

(3) Being aggrieved by the order dated 31.05.2008, the petitioner in W.P. (227) No.982/2011 preferred appeal before the Commissioner, Raipur Division on the ground that the petitioner in W.P. (227) No. 7108/2010 is not belonging to the below poverty line and the certificate of below poverty line is necessary for the appointment of Anganbadi Karyakarta. The Commissioner, by its impugned order dated 03.11.2010, set aside the order passed by the Additional Collector dated 31.05.2008 and directed that fresh recruitment proceedings be initiated for appointment of Anganbadi Karyakarta, Village Lankahuda. Questioning the said order, Smt. Santoshi Manikpuri as well as Smt. Hans Kumari both have filed these writ petitions under Article 227 of the Constitution of India.

(4) Shri Goutam Khetrapal, learned counsel for the petitioner in W.P. (227) No. 7108/2010 would submit that impugned order passed by the Commissioner is bad and unsustainable in law as the Commissioner, Raipur Division has illegally held that the petitioner –

Smt. Hans Kumar is not the member of Below Poverty Line and she is not the resident of village Lankahuda. He submits that the condition of member of Below Poverty Line is not the essential qualification for appointment on the post of Anganbai Karyakarta.

(5) Smt. Savita Tiwari, learned counsel for the petitioner in W.P. (227) No. 982/2011 would submit that the learned Commissioner has rightly set aside the order of Collector but has committed illegality in directing the initiation of fresh recruitment processs for appointment of Anganbadi Karyakarta for village Lankahuda and, therefore, the impugned order to that extent be set aside.

(6) On the other hand, counsel for the State would support the impugned order.

(7) I have heard learned counsel appearing for the parites and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(8) The Commissioner has clearly recorded a finding that Smt. Hans Kumar is not the member of Below Poverty Line after due consideration and the said finding is also supported by the fact that Smt. Hans Kumar, in is his aplication form; which is available as R-1H in Writ Petition No. 7108/2010, has clearly stated that she is not the member of Below Poverty Line and, therefore, the finding recorded by the Commissioner is strictly in accordance with law, which does not call for any interference **but** learned Commissiner has committed illegality in directing fresh initiation of recruitmnet process for appointment of Anganbadi Karyakarta as no appeal was filed by

petitioner- Smt. Hans Kumari and there is no basis for directing initiation of fresh recruitment process for appointment on the post of Anganbadi Karyakarta for village Lankahuda as the effect of setting aside the order of the Collector would be that the Santosh Manikpuri, writ petitioner in WP (227) No. 982/2011 would be entitled for the post of Anganbadi Karyakarta of Gram Lankahuda.

(9) Consequently, the writ petition (227) No. 7108/2010 filed by petitioner – Smt. Hans Kumari fails and is hereby dismissed *whereas* Writ Petition (227) No. 982/2011 filed by petitioner- Santoshi Manikpuri is allowed setting aside the last portion of order directing fresh recruitment process for appointment of Anganbadi Karyakartya for village Lankahuda.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

