

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 7096 of 2010**

Ahilya Bai, W/o Purandas, aged about 33 years, R/o Village Sivni,
Nawagaon, Tahsil Nawagarh, District Durg (C.G.)

---- Petitioner**Versus**

1. Additional Collector, Bemetara, District Durg (C.G.)
2. Child Development Project Officer, Nawagarh, Tahsil Nawagarh,
District Durg (C.G.)
3. Sarpanch Village Panchayat Hathadeeh, Tahsil Nawagarh, District
Durg (C.G.)
4. Chief Executive Officer, Janpad Panchayat Nawagarh, District Durg
(C.G.) (wrongly mentioned as Janpad Panchayat, Durg)

---- Respondents

For Petitioner	:	Mr. P.P. Sahu, Advocate.
For State	:	Mr. Arvind Dubey, Panel Lawyer
For Respondent No. 3	:	Mr. Arun Sao, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****05/12/2017**

(1) Learned counsel appearing for the petitioner would submit that the Director (Panchayat), Raipur, by its order dated 26.09.2006, remanded the matter to the Collector for recording evidence with regard to petitioner's date of birth but the Collector, by its order dated 17.04.2008, dismissed the case holding that the petitioner has failed to establish her correct date of birth and the Director (Panchayat), by its impugned order dated 13.07.2009, has affirmed the same, which is bad and unsustainable in law.

(2) Per contra, counse for the State would support the impugned order.

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

(4) It is true that the Director (Panchayat) has remanded the matter to the Collector for recording evidence with regard to petitioner's date of birth. But a careful perusal of the order of the Additional Collector would show that no opportunity of hearing was granted to the petitioner to adduced her evidence with regard to her date of birth as directed by Director (Panchayat) by its order dated 26.09.2006 and dismissed the case and which has duly been affirmed by the Director (Panchayat) by its impugned order dated 13.07.2009 holding that the petitioner has failed to establish his date of birth. Fact remains that order of the Director (Panchayat) dated 26.09.2006 has not been complied with. Therefore, the order passed by the Additional Collector dated 17.04.2008 is set aside. Consequently the order dated 13.07.2009 passed by Director (Panchayat) affirming the order of Additional Collector is also set aside. The matter is remitted back to the Collector, Bemetara for hearing and disposal of the case after giving opportunity to the petitioner to establish her date of birth by recording evidence as directed by Director (Panchayat) by its order dated 26.9.2006 within a period of three months from the date of receipt of certified copy of this order after affording due opportunity of hearing to the affected parties.

(5) The writ petition is allowed to the extent sketched hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

