

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.23 of 2007

Smt. Rameshwari Bidani, aged about 35 years, W/o Shri Chandra Bhushan Bidani (Satnami), R/o Village and Post Bharregaon, Tahsil and District Rajnandgaon (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Women and Child Development, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
2. The Collector, Rajnandgaon (C.G.)
3. The District Women and Child Development Officer, Rajnandgaon (C.G.)
4. The Janpad Panchayat, Rajnandgaon (C.G.), Through Chief Executive Officer, Janpad Panchayat, Rajnandgaon (C.G.)
5. Gram Panchayat Bharregaon, Tahsil and District Rajnandgaon (C.G.), Through the Sarpanch.
6. Smt. Kalyani, aged about 38 years, W/o Shri Ishwar Lal Tandon, R/o Village and Post Bharregaon, Tahsil and District Rajnandgaon (C.G.)

---- Respondents

For Petitioner: Mr. Kripesh Kela, Advocate.
For Respondents No.1 to 3/State: -
Mrs. Astha Shukla, Panel Lawyer.
For Respondent No.5: Mr. Ravindra Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/01/2017

1. The petitioner as well as respondent No.6 and eight other candidates applied for the post of Aanganbadi Karyakarta of Village Bharregaon, Distt. Rajnandgaon. The criteria for appointment is that the candidate must be of more than 18 years and less than 44 years and his name must have been in the electoral roll of the Gram Panchayat where the Aanganbadi Centre is proposed to be opened and his near relative should not be in the Government job, whereas preference is to be given to widow and deserted women as well as women belonging to below poverty line and also to women belonging to Scheduled Caste and Scheduled Tribe. The petitioner as well as respondent No.6 lead their candidature apart from eight other candidates.
2. After submission of candidature, objections were invited and after inviting objections, Annexure R-1/1, comparative list, was issued in which respondent No.6 was found to be the member of Scheduled Caste and that her husband's brother is in Government service, but it was found that he is residing in Durg separately and is not residing with respondent No.6 and she belongs to below poverty line and also Scheduled Caste and therefore she was selected whereas, it it

was found that the petitioner though is a member of Scheduled Caste, but is not belonging to below poverty line and her father-in-law is a Government servant and she is staying in the joint family headed by her father-in-law, therefore, she was not selected. Questioning the appointment of respondent No.6, this writ petition has been filed on 22-12-2006.

3. Return has been filed by the State/respondents No.1 to 3 opposing the writ petition stating inter alia that respondent No.6 was found suitable as per the criteria laid down in Annexure P-2 as she is member of Scheduled Tribe category and belongs to below poverty line and is residing separately from the joint family and as such, she is entitled to be appointed as per the guidelines for appointment.
4. Mr. Kripesh Kela, learned counsel appearing for the petitioner, would submit that appointment of respondent No.6 is contrary to the guidelines issued by the Integrated Child Development Project, as husband's brother of respondent No.6 is already in Government job and is hit by clause 3 of Annexure P-2. The petitioner's objection that respondent No.6 is not a woman belonging to below poverty line has not

been considered and decided. He would further submit that the petitioner's father-in-law had already retired on 30-4-2006.

5. Mrs. Astha Shukla, learned Panel Lawyer appearing on behalf of the State/respondents No.1 to 3, would support the impugned order.
6. Mr. Ravindra Agrawal, learned counsel appearing for respondent No.5 would also support the impugned order.
7. I have heard learned counsel for the parties and consider their rival submissions and also gone through the material available on record with utmost circumspection.
8. The petitioner has two fold objections. The first objection is that husband's brother of respondent No.6 is already in Government job and she is not qualified to be appointed as per clause 3 of the memo dated 25-1-2006 issued by the Supervisor, Integrated Child Development Project, Rajnandgaon. In Annexure R-1/1 comparative chart filed by the State / respondents No.1 to 3 with regard to this objection, there is a clearcut note which clearly states that husband's brother of respondent No.6 is in Government job at

Durg District and on enquiry by the Supervisor, it has been found that respondent No.6 is not residing with her *devar* (husband's brother) in joint family and the said *devar* of respondent No.6 is residing separately at Gunderdehi, Distt. Durg and therefore her name was recommended for appointment. Since husband's brother of respondent No.6 belongs to a different family and is residing separately in another district i.e. Durg, it cannot be considered that respondent No.6 is disqualified for appointment and her appointment is hit by clause 3 of memo dated 25-1-2006. Likewise, the next objection is that the petitioner's objection that respondent No.6 does not belong to the family of below poverty line, has not been considered and decided. Annexure R-1/1 issued by the Gram Panchayat clearly states that respondent No.6 belongs to below poverty line and it has clearly been informed in the return filed by the State that she is member of below poverty line. The State has clearly stated that the petitioner's objection with regard to respondent No.6 and that she does not belong to below poverty line has been considered and after considering his objection, it has been held that she belongs to below poverty line and

her case has been considered as she is also a member of Scheduled caste and belongs to below poverty line, whereas the petitioner does not belong to below poverty line as she is staying in joint family along with her father-in-law. Both the points raised by the petitioner fail and as such, the writ petition deserves to be and is hereby dismissed leaving the parties to bear their own costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma