

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.86 of 2017**

Ku. Bhishma Kumari Bondekar D/o Harilal Bondekar, Aged About 38 Years R/o Ward No. 14, Sonesar, Tehsil Khairagarh, District Rajnandgaon, (Chhattisgarh)

---- Appellant**Versus**

1. Smt. Jyoti Bondekar W/o Mukesh Bondekar, R/o Ward No. 14, Sonesar, Tehsil Khairagarh, District Rajnandgaon, (Chhattisgarh)
2. The Commissioner, Durg Division, Durg, (Chhattisgarh)
3. The Collector, Rajnandgaon, (Chhattisgarh)
4. Sub Divisional Officer (Revenue), Khairagarh, Distt. Rajnandgaon, (Chhattisgarh)
5. Chief Municipal Officer, Nagar Palika Parsihad, Khairagarh, Distt. Rajnandgaon, (Chhattisgarh)
6. Project Officer, Women And Child Development Department, Khairagarh, Distt. Rajnandgaon, (Chhattisgarh)

----Respondents

For Appellant : Mr. Rajendra Tripathi, Advocate

For State : Mr. A.S. Kachhwaha, Addl. Advocate General

Hon'ble Shri Pritinker Diwaker, Acting Chief Justice
Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board**Sanjay K. Agrawal, J.****17/03/2017**

(1) The petitioner was appointed on the post of Aanganbadi Worker at Ward No.14 Sonesar, Tahsil Khairagarh, District Khairagarh vide

order dated 01.10.2013. Her appointment was challenged by respondent No.1-Smt.Jyoti Bondekar by filing an appeal before respondent No.4-Sub-Divisional Officer (Revenue), Khairagarh as per Clause-11.d & e of the guidelines issued on 02.04.2008 by the State of Chhattisgarh regarding the appointment of Aanganbadi Worker in the State of Chhattisgarh. The Sub Divisional Officer (Revenue), Khairagarh/appellate authority vide order dated 14.06.2016 allowed the appeal filed by respondent No.1 and set-aside the appointment order of the petitioner in the post of Aanganbadi Worker and held that the petitioner did not have valid caste certificate either permanent or temporary on the date of her selection/appointment. Against which, the petitioner filed an appeal before respondent No.3/Collector, Rajnandgaon, the Collector by its impugned order dated 28.07.2016 affirmed the order passed by the SDO. Against that order, the petitioner preferred revision before respondent No.2-Commissioner, Durg Division, Durg where the case was registered as Case No.278A/89, the same was also dismissed. Finally, the petitioner filed writ petition under Article 226 of the Constitution of India before this Court quashing the order of SDO as affirmed by the Collector and reaffirmed by the Commissioner. The learned Single Judge vide its order dated 21.02.2017 passed in Writ Petition (S) No.7042/2016 declined to interfere in its writ jurisdiction by holding that the petitioner did not have the valid caste certificate on the date of her selection/appointment, therefore, the order passed by the Sub Divisional Officer as affirmed by the Collector and the Commissioner cannot be interfered with in the writ jurisdiction.

(2) In this writ appeal preferred by the appellant, Mr. Rajendra

Tripathi, would submit that now the permanent caste certificate issued to her on 28.07.2015, therefore, the affirming impugned order of the Collector is liable to be set-aside.

(3) We have heard learned counsel appearing for the parties and perused the impugned order with utmost circumspection.

(4) The petitioner was claiming to be appointed as Aanganbadi Worker as scheduled caste candidate as per guidelines issued by the State of Chhattisgarh on 02.04.2008. She must have the caste certificate issued by the competent authority as per clause 1.9 of the said guidelines.

(5) Admittedly, the petitioner did not have the permanent caste certificate of scheduled caste on the date of her selection/appointment. She did have temporary caste certificate on the date of selection, which has already expired and in the absence of caste certificate either permanent or temporary on the date of selection/appointment, the Chief Municipal Officer, Nagar Palika Parishad, Khairagarh had wrongly appointed the petitioner on the post of Aanganbadi Worker which has rightly been rectified by Sub Divisional Officer/appellate authority in the appeal and has been affirmed by the Collector in the second appeal preferred by the appellant and also affirmed in the writ petition filed by the petitioner/appellant herein.

(6) We do not find any illegality or perversity in the impugned order warranting interference by this Court in writ appeal filed under Section 2 of Sub Section (1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006. Consequently, the writ appeal deserves to be and is

accordingly dismissed at admission stage without notice to the other side.

Sd/-
(Pritinker Diwaker)
Ag. Chief Justice

Sd/-
(Sanjay K. Agrawal)
Judge

Laxmi