

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 3550 of 2012**

Smt. Lalita Nishad W/o Shri Gulavand Nishad Aged About 33 Years
R/o Vill. Vijaypur P.S. Saria, Tahsil Baramkela, Distt. Raigarh C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department of Panchayat & Rural Development, Ministry, DKS Building, Raipur (Cg)
2. Commissioner Bilaspur Division Bilaspur C.G.
3. Collector, Raigarh, Distt. Raigarh CG.
4. Chief Executive Officer, Janpad Panchayat Baramkela, Distt. Raigarh C.G.
5. Project Officer Integrated Woman & Child Development Project Janpad Panchayat Baramkela Distt. Raigarh C.G.
6. Phool Kumari R/o Vill. Vijaypur P.S. Saria Tahsil Baramkela, Distt. Raigarh C.G.
7. Smt. Indira R/o Village Vijaypur P.S. Saria, Tahsil Baramkela Distt. Raigarh C.G.

---- Respondents

For Petitioner	:	Shri Raghvendra Pradhan, Advocate.
For respondent/State	:	Shri SRJ Jaiswal, Panel Lawyer.
For Respondent No.6	:	Shri Abhishek Saraf, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****13.02.2017**

1. The present petition has been preferred assailing the order passed by the Secretary, Govt. of Chhattisgarh, Panchayat & Rural Development Department, Raipur, dated 16.07.2012. By way of said impugned order, the Secretary in exercise of its power under Rule 5 of Chhattisgarh Panchayat (Appeal and Revision Rules), 1995 (for short, the Rules, 1995) has set aside the order passed by the Commissioner, Bilaspur

Division dated 21.05.2010.

2. Brief facts relevant for proper adjudication of the case is that the recruitment process for filling up vacant post of Angan Badi worker in the Angan Badi Centre, Vijapur, Tehsil Baramkela, Distt. Raigarh was initiated. That, four candidates had appeared i.e. apart from the present petitioner Lalita, Phool Kumari, Smt. Indira and Kumudini had already participated in the proceeding. After recruitment process was complete, the respondent No.4-Chief Executive Officer, Janpad Panchayat, Janpad Panchayat, Baramkela (for short, the CEO) issued an order of appointment in favour of present petitioner vide order dated 18.01.2007.
3. The said order of appointment issued in favour of petitioner was put to challenge in an appeal before the Collector by the respondent No.6 Phool Kumari. The Collector vide order dated 02.03.2009 allowed the appeal of respondent No.6 and had set aside the order of appointment issued in favour of petitioner and have ordered for issuance of appointment order in favour of respondent No.6. This order of Collector dated 02.03.2009 was subjected to challenge in second appeal before the Commissioner, Bilaspur Division. The Commissioner vide order dated 21.05.2010 (Annexure P/4) allowed the second appeal and set aside the order of Collector and at the same time remitted the matter back to the CEO, Baramkela for a fresh scrutiny of the papers and then to reach to a conclusion as to who is the eligible person to be issued with an order of appointment.
4. By virtue of order of Commissioner, the CEO conducted a fresh

scrutiny of the documents submitted by all the claimants and vide order dated 08.03.2010 found that it was the present petitioner who was the most eligible candidate and accordingly issued an order of appointment in her favour. By virtue of said order of CEO, the present petitioner had also assumed the office of Angan Badi worker at Angan Bade Centre, Vijaypur, Tehsil Baramkela. Meanwhile, the respondent No.6 is said to have preferred a revision petition under Section 5 of the Rule, 1995. The Secretary, Department of Panchayat & Rural Development Department, after issuance of notice to the contesting parties vide order impugned dated 16.07.2012 had set aside the order of Commissioner, Bilaspur Division and has ordered for issuance of order of appointment in favour of respondent No.6-Phool Kumari. It is this order which is under challenge in this petition.

5. Learned counsel appearing for the petitioner submits that pending the petition there has arisen a major development which would be very relevant for the adjudication of the present petition. According to the petitioner, by virtue of order of the Secretary, Panchayat & Rural Development Department, the respondent No.6 was granted appointment and the petitioner was removed from the service. After the respondent No.6 joined the said post, a complaint was received in the office of CEO, Barmkela, in respect of respondent No.6 using fake certificate for her employment and also an allegation was levelled that the respondent No.6 is impersonating herself to be Phool Kumari but was not Phool Kmuari but was another lady Bhagwati. Based on the said complaint, the CEO, Baramkela, initiated an enquiry and show

cause notice was also issued to the respondent No.6.

6. After hearing all the parties, the CEO reached to the conclusion that the allegations levelled against the respondent No.6 infact is true and it has been reflected in the course of enquiry that the person who has challenged the order of appointment of the petitioner was not infact Phool Kumari but is another lady namely Bhagwati. In the course of enquiry it is also reflected that this Bhagwati is infact the real sister of Phool Kumari. The said Bhagwati has impersonated herself as Phool Kumari and had also used the marksheets of Phool Kumari for seeking appointment on the post of Angan Badi worker. On verification it was also found that Phool Kumari infact is the sister of respondent No.6 who is married to one Hemsagar and is staying at Orissa. It was also reflected that the respondent No.6 is infact Bhagwati and has not even passed her 8th Class examination. She had used the mark sheet of her sister Phool Kumari and projecting herself to be Phool Kumari and had got an employment.
7. On the basis of said finding, meanwhile, the services of respondent No.6 has vide order dated 26.10.2012 terminated. The petitioner now submits that in the light of entire inquiry which has been brought in this petition as Ex. P/12 and order of appointment issued in favour of respondent No.6 also being cancelled and services of respondent No.6 being terminated, as a natural consequence, the order of appointment in favour of the petitioner should get restored, and therefore an appropriate direction may be issued in this regard.
8. Counsel for the respondent No. 6 submits that it is a case where the

respondent No.6 is infact Bhagwati, but subsequently she had got her name changed as Phool Kumari and she therefore was contesting case as Phool Kumari. However, on a query being put to the counsel for the respondent No.6 he has not been able to produce or obtain any document to show in respect of the change of name. He was also not able to give any satisfactory reply to the findings of the CEO in respect of Bhagwati not being qualified for the post of Angan Badi worker as she was not even passed Class-8th examination. He was also not able to provide any satisfactory explanation to the finding of the CEO also in respect of respondent No.6 using marksheet of Bhagwati projecting herself as Phool Kumari for the purpose of claiming appointment as Angan Badi worker.

9. Another aspect which cannot be brushed aside is the fact that order dated 26.10.2012 passed by the CEO terminating the respondent No. 6 from the post of Angan Badi worker had not been questioned or challenged by the respondent No.6 before any court of law. Thus, the same had attained its finality.
10. In view of the aforesaid factual matrix of the case which has come to the notice of this court and the development which transpires subsequent to the issuance of the impugned order dated 16.07.2012, this court has no hesitation in reaching to the conclusion that the revision preferred by the respondent No.6 before the Secretary itself would not be tenable firstly on the ground that the respondent No.6 was not infact Phool Kumari. Secondly, it was a case where there is clear case of impersonation at the hands of respondent No.6. Further, the

report shows that the respondent No.6 is also not having the minimum eligible qualification for appointment as Angan Badi worker. In addition, it is also a case where she was trying to claim her appointment on the basis of certificate of Phool Kumari and not that of actual respondent No.6.

11. Thus, for all the aforesaid reasons, this court is of the opinion that the order of the Secretary, Panchayat & Rural Development Department (Annexure P/1) dated 16.07.2012 is not sustainable in the light of the enquiry report of CEO, Baramkela and the same is accordingly set aside. As a consequence of order dated 16.07.2012 being quashed/set aside, the order of Commissioner dated 21.05.2010 would stand restored and consequently, the petitioner who was earlier granted appointment vide order dated 08.03.2010 would also get restored.
12. It is ordered that the order of appointment issued in favour of petitioner on 08.03.2010 may be restored back and the petitioner shall also be entitled for all consequential benefits. However, it is made clear that the petitioner shall not be entitled for the monetary benefit for the period when respondent No.6 was appointed as Angan Badi worker in her place, but the said period shall be taken into consideration for grant of seniority.
13. The petition therefore stands allowed and disposed off.

Sd/-

(P.Sam Koshy)
Judge