

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3398 of 2013**

- Smt. Shashi Sahu W/o Late Shri Yudhishthir Sahu, Aged About 35 Years, R/o Village & Post Tushma, Police Station Sheorinaryan, Civil & Revenue Distt Janjgir Champa, C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh : Through Secretary, Woman And Child Development Department, Dau Kalyan Singh Bhawan, Raipur, C.G.
2. The Additional Commissioner, Bilaspur Division, Distt Bilaspur (C.G.)
3. The Additional Collector, District Janjgir Champa, C.G.
4. Chief Executive Officer, Janpad Panchayat, Janjgir, Distt Janjgir Champa, C.G.
5. The Project Officer, Integrated Child Development Project, Janjgir, Distt Janjgir Champa, C.G.
6. Smt. Aasha Kathautiya W/o Girdhar Lal Kathautiya R/o Village Tusma, Tahsil & Police Station Nawagarh, Distt Janjgir Champa (CG)
7. Smt. Anita Sahu W/o Shivkumar Sahu, R/o Village Tusma, Tahsil & Police Station Nawagarh, District Janjgir-Champa (C.G.)
8. Janpad Panchayat, Janjgir, through The Chief Executive Officer, Distt Janjgir Champa (C.G.)

---- Respondents

For Petitioner
For Respondent-State
For Respondent No.6

Shri Prateek Sharma, Advocate
Shri Arvind Dubey, PL
Shri H. V. Sharma, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/03/2017

1. Petitioner would assail the order passed by the Additional Commissioner, Bilaspur Division, Bilaspur on 20.10.2011 and the order dated 17.02.2012 (Annexure-P-2), as well passed by the Project Officer, Integrated Child Development Project (henceforth 'Project Officer, ICDP'), Navagarh directing the CEO, Janpad Panchayat, Navagarh to withdraw the charge of Office of Aaganbadi Worker, Aaganbadi Centre, Tusma, Block Navagarh, Janpad Panchayat Janjgir, District Janjgir-Champa from the petitioner.
2. Facts of the case, briefly stated, are that the respondent No.6 Smt. Aasha Kathautiya was appointed as Aaganbadi Worker of Tusma, Aaganbadi Centre on 30.05.2006. Her appointment was challenged by the respondent No.7 Smt. Anita Sahu by preferring appeal before the Additional Collector, Janjgir-Champa. The appeal was allowed by the Additional Collector on 03.03.2008, resultantly, respondent No.6's appointment was set aside. Challenging the order of Additional Collector, the respondent No.6 preferred revision application before the Additional Commissioner, Bilaspur Division, wherein an interim order was passed in her favour

on 28.05.2008 only till the date of receipt of record. The Additional Commissioner thereafter passed the final order on 20.10.2011 allowing the revision application of respondent No.6 and thereafter a communication was sent by the Project Officer, ICDP, Navagarh to CEO, Janpad Panchayat, Navagarh on 17.02.2012 (Annexure-P-2) for withdrawing the charge from the petitioner and handing over the same to respondent No.6.

3. Shri Prateek Sharma, learned counsel for the petitioner, would submit that the petitioner is not at all concerned with the *inter se* dispute between the respondent No.6 and 7, as the petitioner's appointment was specifically for Aaganbadi Centre No.4, Tusma in a separate recruitment process, wherein the respondent No.6 or 7 did not participate. He would further submit that the Project Officer, ICDP, Navagarh has committed serious error of law and fact by withdrawing charge from the petitioner.
4. A perusal of the appointment order of respondent No.6 issued on 30.05.2006 (Annexure-R-6/1) would indicate that her appointment was for Aaganbadi Centre, Tusma, whereas the petitioner's appointment was specifically for Aaganbadi Centre No.4, Tusma. One more candidate namely Kevra Bai was also appointed in the same order, in which the petitioner was appointed and the said Kevra Bai's

appointment was for Aaganbadi Centre, Mandlipara Tusma. It appears, there are more than one Aaganbadi Centres at Tusma, therefore, despite pendency of the revision application of respondent No.6 before the Additional Commissioner, Bilaspur Division, under the State Government's directives issued on 02.04.2008, a separate recruitment process was initiated for Aaganbadi Centre No.4, Tusma, which is wholly separate and distinct to the appointment or recruitment to Aaganbadi Centre, Tusma for which the dispute was between the respondent No.6 & 7.

5. It is also to be seen that at all relevant point of time, the recruitment process for filling up of the vacant posts of Aaganbadi Centre was undertaken by the Janpad Panchayat, Navagarh, which was arrayed as respondent No.2 before the Additional Commissioner, Bilaspur Division. Thus, it is not possible that the Janpad Panchayat was not aware that the dispute between the respondent Nos.6 & 7 is not in respect of the same Aaganbadi Centre for which the petitioner was appointed. Had it been so, the Janpad Panchayat, Navagarh would not have initiated fresh recruitment process for Aaganbadi Centre No.4, Tusma, but it would have kept the matter pending for decision by the Additional Commissioner, Bilaspur Division.

6. In the considered view of this Court, it is for this reason alone, the petitioner was not arrayed as respondent before the Additional Commissioner nor her appointment order dated 14.07.2011 was ever called in question by any of the parties to this petition, including the respondent Nos.6 & 7. In view of the above, since the petitioner was neither a party to the proceedings before the Additional Commissioner nor her appointment vide order dated 14.07.2011 was under assail nor she has been granted any opportunity of hearing and more significantly her appointment was specifically for Aaganbadi Centre No.4, Tusma, which is separate than the appointment of respondent No.6 to Aaganbadi Centre, Tusma, the petition deserves to be and is hereby allowed. It is directed that the petitioner shall be allowed to continue as Aaganbadi Worker of Aaganbadi Centre No.4, Tusma pursuant to the order dated 14.07.2011 and she shall be paid entire salary from the date of appointment till date, if not paid to her.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA