

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision : November 08, 2017

1. RSA No.4736 of 2012 (O&M)

Nirmala vs Reena and others

2. RSA No.5250 of 2012 (O&M)

Reena vs State of Haryana and others

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Keshav Pratap Singh, Advocate
for the appellant in RSA No.4736 of 2012, and
for respondent No.5 in RSA No.5250 of 2012.

Mr. K.S Malik, Advocate
for the appellant in RSA No.5250 of 2012 and
for respondent No.1 in RSA No.4736 of 2012.

Mr. Sushil Gautam, DAG Haryana

Ajay Tewari, J (Oral)

This order shall dispose of the aforesaid Regular Second Appeals.

Brief facts are that Reena had filed the instant suit challenging the appointment of Nirmala as Anganwari Worker, with the further prayer for a decree of mandatory injunction directing the official respondents to appoint her in place of Nirmala. The trial Court, vide its judgment and decree dated 5.6.2010, partly decreed the suit and held the appointment of Nirmala as illegal but denied the relief of mandatory injunction. Reena filed an appeal directing the official respondents to appoint her in place of

Nirmala, while Nirmala filed an appeal challenging the judgment and decree of the trial Court. Both the appeals were dismissed by the lower appellate Court vide a common judgment dated 3.10.2012. Hence both Reena and Nirmala are before this Court by way of these Regular Second Appeals.

Both the Courts held that the appointment of Nirmala was vitiated since she was allotted marks under some heads for which the supporting documents were admittedly placed on record much after the selection. However, the relief of appointment was denied to Reena on the ground that she had not placed on record her Matriculation certificate.

Counsel for the appellant-Reena has argued that in fact the Matriculation certificate was placed on record but was either intentionally or unintentionally lost by the official respondents, and as a matter of fact the same had also been placed on record of the civil suit as Ex.P24. This shows that Reena had requisite qualifications and consequently appointment to her could not have been denied once it was held that appointment of Nirmala was illegal.

Counsel for Nirmala and learned DAG Haryana have argued that in the written statement it had been specifically pleaded that Reena had not appended her Matriculation certificate. However, no replication was filed denying that fact. More-over, the document, Ex.P24, has been issued to one Reena d/o Dalbir Singh resident of village Dobh, District Rohtak while she had shown herself to be Reena wife of Anand Parkash resident of village Kutana, Tehsil and District Rohtak. As per them, the document Ex.P24 firstly could not be looked into in evidence because Reena never pleaded the same. Moreover, this document was placed on record by the Advocate at the conclusion of the evidence and had Reena placed that on

record she could have been cross-examined as to whether the certificate related to her or to some other person. Learned counsel for Reena has then argued that at-least Reena had placed on record her 10+2 certificate which meant that she must have done her Matriculation or in the alternative once she was having higher qualification she could not have been treated to be ineligible. As per the learned counsel for the respondents, Reena was not treated as ineligible but no marks were given to her for Matriculation since there was no document on record and without counting any marks for Matriculation she was way below in the merit list.

In this view of the matter, the findings of the Courts below cannot be faulted. As regards the claim for Nirmala, her appeal also must fail because she admittedly was not granted marks under certain heads for which the supporting documents were placed on record much later. Consequently, finding no merit in these appeals, the same are dismissed.

Since the main cases have been decided, the pending C.Ms, if any, also stand disposed of.

November 08, 2017
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No