

**HIGH COURT OF CHHATTISGARH AT BILASPUR****W.P.S. NO. 3631 OF 2010**

Smt. Chuneshwari, W/o Girjanand, aged about 21 years, R/o Village Tandipar, Tahsil Sarangarh, District Raigarh (CG) **... Petitioner**

**versus**

1. State of Chhattisgarh, through: Secretary, Panchayat & Gramin Vikas Vibhag, D.K.S. Bhawan, Raipur, District Raipur (CG)
2. Collector, Raigarh, District Raigarh (CG)
3. Project Officer, Ekikrit Bal Vikas Pariyojna, Sarangarh, District Raigarh (CG)
4. Chief Executive Officer, Janpad Panchayat, Sarangarh, Raigarh (CG)
5. Smt. Sumitra, W/o Durga Prasad, Village Tandipar, District Sarangarh, Distric Raigarh (CG) **... Respondents**

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| For Petitioner         | : | Ms. Rasul Bhavnani, Advocate, under instructions of Mr. Manoj Paranjpe, Advocate. |
| For Respondents 1 to 3 | : | Ms. Sunita Jain, Panel Lawyer.                                                    |
| For Respondent 5       | : | Mr. M.K. Jaiswal, Advocate.                                                       |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**07/09/2018**

1. Challenge in the present writ petition is to the order passed by respondent no.4, Annexure P-8, dated 9.6.2009, whereby the Chief Executive Officer, Janpad Panchayat Sarangarh has cancelled the order of appointment issued in favour of the petitioner on 3.10.2008. Challenge also is to Annexure P-1 whereby the appeal preferred by the petitioner before the Collector stood dismissed vide order 5.7.2010.

2. The relevant facts are that an advertisement for filling up of the post of Anganwadi Worker for Village Tandipar, Gram Panchayat Tandipar, Janpad Sarangarh, District Raigarh was published on 30.5.2008. The petitioner being eligible had applied for the same and she was issued with an order of appointment on 3.10.2008. The petitioner subsequently gave her joining on 13.10.2008. Later on, at the instance of respondent no.5 a complaint was made to respondent no.4. The nature of complaint was that on the date of advertisement as well as on the date of appointment the petitioner was not married to Girjanand and that she does not belong to Village Tandipar and

she is a resident of different place and only for the purpose of getting the employment she has made a false averment and has been able to obtain employment.

**3.** Respondent no.4 conducted an enquiry and after enquiry gave a finding that the allegations made against the petitioner were correct to the extent that on the date of appointment, the petitioner was not in fact married to Girjanand and that she had made suppression of facts at the time of filling up of the application for the purpose of obtaining employment, and ordered for cancellation of the appointment. This order of the Chief Executive Officer, Janpad Panchayat, Sarangarh was subjected to challenge in an appeal before the Collector, Raigarh who in turn affirmed the order of the Chief Executive Officer, Janpad Panchayat, Sarangarh. Both the authorities reached to the conclusion that there were materials with which an element of doubt crept in establishing the marriage of the petitioner with Girjanand on the date of appointment.

**4.** Perusal of record more particularly the statement of the priest of the temple who had solemnized the marriage of the petitioner with Girjanand, namely, Bhuneshwar Prasad Tiwari, has deposed that he had got the marriage conducted on 12.3.2009 and that he is making the statement on the basis of certain entries in respect of the marriage that were available in his diary. In addition, there was also a finding of the authorities that there were no documents to show that she was in fact a resident of Village Tandipar inasmuch as the voter list did not reflect the name of the petitioner for a period prior to the date of appointment to establish this fact.

**5.** Per contra, the petitioner in the present writ petition has produced the voter list of Village Tandipar, i.e. , the place of resident of the petitioner, and the voter list was prepared as it stood on 1.1.2009 and in the said voter list at Sl. No. 881 reflected the name of the petitioner and her husband to

Girjanand. If the voter list as it stands on 1.1.2009 reflected the name of the petitioner, would clearly establish that she must have definitely married before 2009 itself. That by itself proves that the averment made by the priest Bhuneshwar Prasad Tiwari becomes doubtful. Moreover, there is a reference of the petitioner's photograph of marriage held on 23.4.2008 produced before respondent no.4 as well as before the appellate authority, the Collector, and in all those photographs also the date has been reflected as 23.4.2008.

**6.** Once when it is established that the statement of Bhuneshwar Prasad Tiwari is doubtful and the fact that there were documents so far as the voter list is concerned giving strength of the fact that the marriage of the petitioner took place prior to 2009, the safest inference that can be drawn is that the averment made by the petitioner of having married Girjanand on 23.4.2008 has to be accepted. Moreover, a document of the Secretary, Gram Panchayat, Kurusula, Exhibit P-3, also shows that there was an engagement function between the petitioner and Girjanand held on 13.4.2008 and if that be so, also the marriage after 10 days is quite possible. There is nothing on the contrary to establish that the marriage did not take place on 23.4.2008 particularly when the fact that the alleged marriage of the petitioner with Girjanand on 12.3.2009 getting falsified in the light of the the name of the petitioner being reflected in the voter list is concerned.

**7.** For all the aforesaid reasons, this Court is of the opinion that the order dated 9.6.2009, Annexure P-8, of the Chief Executive Officer, Janpad Panchayat, Sarangarh as also the order, Annexure P-1, dated 5.7.2010, passed by the Collector, Raigarh in an appeal, both are not sustainable and deserve to be and are accordingly set aside/quashed.

**8.** Since the petitioner is already discharging the duties by virtue of an interim protection, the status of the petitioner stands confirmed.

9. The writ petition stands allowed and disposed of accordingly.

**Sd/-**  
**(P. Sam Koshy)**  
**Judge**

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