

HIGH COURT OF CHHATTISGARH, BILASPUR
WPS No.1696 of 2008

Smt. Chitrarekha W/o. Ram Niwas, aged about 20 years, Resident of Village Saraipatera, Tahsil Lormi, District Bilaspur (CG)

---- Petitioner

Versus

- 1.** State of Chhattisgarh, Through the Secretary, Panchayat and Welfare Department, D.K.S. Bhawan, Raipur (CG)
- 2.** The Collector, Bilaspur, District Bilaspur (CG)
- 3.** District Project Officer, Mahila Bal Vikas, Project Lormi, District Bilaspur
- 4.** The Chief Executive Officer, Janpad Panchayat, Lormi, Distt. Bilaspur (CG)
- 5.** Smt.Santoshi Kashyap W/o. Shri Praveen @ Prahlad Kashyap, R/o. Village Saraipatera, Tahsil Lormi, District Bilaspur (CG)

---- Respondents

For Petitioner	:	Mr.Shobhit Koshta, Advocate
For Respondents No.1 to 3	:	Mr.Ashish Surana, P.L.
For Respondent No.4	:	Mr.Arun Sao, Advocate
For Respondent No.5	:	Mr.P.P.Sahu, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

19/1/2018

- 1.** The petitioner was appointed as Anganwadi Karyakarta at Anganwadi Centre Saraipatera. That order was challenged by respondent No.5 before the Additional Collector, Bilaspur. The Additional Collector, Bilaspur by the impugned order dated 3.7.2007 (Annexure P/3) set aside the appointment of the petitioner and directed for reconsideration and accordingly, after reconsideration, respondent No.5 has been appointed on the post of Anganwadi Karyakarta by order dated 10.8.2007 (Annexure P/7). Both the orders have been challenged by the petitioner herein by way of this writ petition.
- 2.** Learned counsel for the petitioner would submit that the petitioner is a member of Scheduled Caste and according to clause-5 of the

circular dated 7.2.2006, she is entitled for preference. She is also a member of below poverty line (BPL) as per certificate issued by the competent authority, therefore, her appointment has illegally been cancelled by the Additional Collector, Bilaspur.

- 3.** On the other hand, learned State Counsel and learned counsel for the private respondents would support the impugned orders.
- 4.** I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
- 5.** It is apparent on the face of record that the petitioner is having valid BPL certificate issued by the competent authority/Block Development Officer and also having caste certificate (SC) issued by the competent authority/Tahsildar, Lormi. It appears that on the basis of clause-5 of the circular dated 7.2.2006, preference was given to her and she was appointment on the post of Anganwadi Karyakarta, but the Additional Collector, Bilaspur has revoked the appointment of the petitioner on the ground that BPL certificate issued by the Block Development Officer is erroneous and respondent No.5 has secured more marks than the petitioner.
- 6.** In the considered opinion of this Court, BPL certificate granted by the competent authority/Block Development Officer cannot be held to be erroneous while considering the revision. The certificate was granted in accordance with law and appointment based on that certificate cannot be cancelled holding the certificate to be erroneous. Likewise, she is also a member of Scheduled Caste and therefore, she is entitled for preference and she has been granted appointment. This fact has also not been considered by the Additional Collector, Bilaspur and set aside the appointment of the

petitioner. The petitioner has also passed 8th class and so far as comparative merit is concerned, there is no provision of comparative merit on the basis of marks obtained in class 8th in the circular dated 7.2.2006 and to grant preference.

- 7.** In view of the above discussion, the impugned order dated 3.7.2007 (Annexure P/3) passed by the Additional Collector, Bilaspur and appointment order dated 10.8.2007 (Annexure P/7) issued in favour of respondent No.5 are hereby set aside. The matter is remitted to the Collector/Additional Collector, Bilaspur for consideration the case of the petitioner and respondent No.5 afresh in accordance with law after hearing the parties within a period of three months from today.
- 8.** The writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-