

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO. 7849 OF 2011**

Smt. Yogeshwari W/o Shri Loknath Chandra, R/o Vill.- Chhindamuda, Tahsil-Sakit, Janpad Panchayat Sakti, Distt.- Janjgir-Champa (CG).

...Petitioner(s)

Versus

1. The Additional Commissioner, Bilaspur Division, Bilaspur (CG).
2. The Additional Collector, Janjgir-Champa, Distt.- Janjgir Champa (CG).
3. The Chief Executive Officer Janpad Panchayat Sakti, Distt.- Janjgir-Champa (CG).
4. The Project Officer Ekikrit Bal Vikas Pariyojana Sakti, Distt.- Janjgir-Champa (CG).
5. Smt. Gunja W/o Shri Vijay Kanwar, R/o-Vill.- Gastidih, Tahsil-Sakti, Janpad Panchayat Sakti, Distt.- Janjgir-Chamapa (CG).

... Respondent(s)

For Petitioner	:	Shri Rishi Rahul Soni, Advocate.
For Respondent-State	:	Shri Chandresh Shrivastava, PL.
For Respondent No.3	:	Ms. Shreya Mishra, Advocate.
For Respondent No.5	:	Shri Deepak Kumar Singh, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

30.07.2018

1. The challenge in the present petition is to the order passed by the Collector dated 18.07.2007 (Annexure P/3) and subsequent order passed by the Commissioner dated 04.06.2011 (Annexure P/1) whereby the appeal preferred by the respondent No.5 before the Collector has been allowed and subsequent revision preferred by the petitioner before the Commissioner stood rejected.
2. The facts of the case is that, an appointment to the post of Angan Badi worker for village Chhindmuda, Tehsil Sakti, District Janjgir Champa was held somewhere in the year, 2006. After scrutinizing of

the documents, the petitioner was granted appointment on 28.11.2006. Subsequently, the respondent No.5 is said to have filed an appeal before the Collector. The Collector vide order dated 18.07.2007 allowed the appeal and held that the petitioner has been wrongly granted appointment and that she infact was not the resident of village Chhindmuda. The Collector also directed the Chief Executive Officer, Janpad Panchayat, Sakti, to consider the documents of the petitioner as well as respondent No.5 and based on the findings, pass an appropriate order afresh.

3. The said order was subjected to challenge before the Commissioner in revision by the petitioner which stood dismissed maintaining the order passed by the Collector in Appeal.
4. The respondent No.3-Chief Executive Officer, Janpad Panchayat, Sakti, has adopted the reply filed by the State and has taken the same stand as has been taken by the State.
5. The respondent No.5, inspite of proper service till date for more than 7 years being lapsed, thought it fit not to file any reply and their right to file reply also stood closed earlier.
6. The contention of the petitioner is that the respondent authorities have failed to properly scrutinize the documents which the petitioner had produced before the authorities so far as the objections which were raised before them as regards the appeal of the respondent No.5 is concerned. The authorities also does not seem to have carried out comparative study of the credentials of the petitioner and that of the respondent No.5 to reach to a conclusion as to who among the two was more eligible for the said post in accordance

with rules governing the appointment of Angan Badi Workers. The petitioner further submits that even otherwise there are sufficient documents on record to show that infact the respondent No.5 was not the resident of said village Chhindmuda on the ground of her getting married and settling along with her Husband at village Gastidih under same Tahsil i.e. Sakti.

7. The contention of the petitioner also was that the respondents have failed to consider the aspect that there is a certificate issued by the Sarpanch also which reflects that only at times the respondent No.5 resides at her parental home along with her Husband, but most of the time she stays at her matrimonial home. Likewise, the petitioner refers to document Ex. P/5 and Ex. P/8 to establish the fact that the petitioner was infact the domicile of the same village which the authorities have not properly appreciated and thus, prayed for setting aside of the impugned order and for passing an order after thorough inquiry is conducted by the respondents.
8. The counsel appearing for the respondents submits that since the present petition which is more under Article 227 of the Constitution, the scope of interference of by this court would get restricted to the minimal. They further submits that a perusal of two orders i.e. Collector as well as of the Commissioner would show that the authorities concerned have infact considered the entire facts and circumstances of the case and only after thorough deliberation and consideration, the impugned orders have been passed. Thus, prayed for rejection of the petition.

9. Having heard the contentions put forth on either side and on perusal of records, indisputably the petitioner has been able to produce BPL Card in the name of her Husband showing her to be a resident of village Chhindmuda and being in the BPL category. The document further reflects that the respondent No.5 i.e. the contesting party herself choose not to file reply to the contention which had been raised by the petitioner in this petition. Another aspect which the petitioner brought to the notice of this court was that the communication/correspondence being made to the respondent No.5 i.e. issuance of the legal notice, notice sent by this court in the present writ petition all were at the place of her matrimonial address i.e. village Gastidih and the notices also have been duly served on that address which shows that she was not residing at village Chhindmuda but at village Gastidih.
10. Further, it also reflects that BPL Card which the respondent No.5 had produced was infact in the name of her grandmother and there her status was shown as grand daughter, aged about 17 years. All these shows that it was a document prior to her marriage which was brought to the notice of the authorities. Thus, the comparative study of the document produced by the either side have not been properly undertaken by the respondent authorities. Further, it also reflects that there was no detail inquiry also conducted to ascertain whether the petitioner or for that matter, the respondent No.5 were infact the residents of village Chindmuda or not after their marriage. The authorities concerned could have simply conducted a random inquiry by recording statements of local persons residing at the address

shown by the respective parties to ascertain whether they are permanently residing in that place or not. In the absence of such inquiry or verification being done by the respondent authorities, the impugned orders Annexure P/3, P/1 and P/2, dated 18.07.2007, 04.06.2011 and 13.08.2007 respectively would not be sustainable and the same deserve to be and are hereby set aside.

11. The matter stands remitted back to the respondent No.3 to conduct a thorough inquiry so far as the documents of the petitioner as well as the respondent No.5 are concerned and thereafter pass a fresh order in accordance with rules governing the field.
12. Needless to mention that whatever inquiry which the respondent No.3 shall undertake should be in respect of the status of the petitioner as well as respondent No.3 as it stood in the year, 2006 or before.
13. The writ petition stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge