

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 6510 OF 2011**

Smt. Sukrita Khare, W/o Shri Ullas Khare, aged about 32 years, R/o Kosmanda, Tahsil Champa, District Janjgir-Champa (CG)

... **Petitioner**

versus

1. State of Chhattisgarh, Ministry of Mahila Evam Baal Bikas, through its Secretary, Dau Kalyan Singh Bhawan, Raipur (CG)
2. Director, Mahila Evam Baal Vikas, Old Nurses Hostel, DKS Building Premises, Raipur (CG)
3. Deputy Director, Mahila Evam Baal Vikas, Old Nurses Hostel, DKS Building Premises, Raipur (CG)
4. Commissioner, Mahila Evam Baal Vikas, Old Nurses Hostel, DKS Premises, Raipur (CG)

... **Respondents**

WRIT PETITION (S) NO. 6204 OF 2014

Smt. Sukrita Khare, W/o Hulas Khare, aged about 35 years, R/o Kosmunda, Thana Champa, District Janjgir-Champa (CG)

... **Petitioner**

versus

1. State of Chhattisgarh, through its Secretary, Department of Women and Child Development, Mantralaya, Raipur (CG)
2. The Director, Mahila Evam Baal Vikas Vibhag, Sanchalanalaya, Raipur (CG)
3. Commissioner, Mahila Evam Baal Vikas Vibhag, Raipur (CG)

... **Respondents**

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- Mr. B.P. Gupta, Advocate, for the Petitioner in WPS No. 6510/2011.
 - Mr. Parag Kotecha, Advocate, for the Petitioner in WPS No. 6204/2014.
 - Mr. S.P. Kale, Dy. Advocate General, for Respondent-State.
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/07/2018

1. Though the challenge in both these writ petitions is to an advertisement, one issued in 2009 and the other issued in the year 2013, but the petitioner in both these writ petitions remains the same and the grievance also remains the same.
2. Contention of the learned counsels appearing for the petitioners is that in both the recruitments the petitioner has been found eligible, except the solitary ground that a child born to the petitioner subsequent to 26.1.2001 and who was alive, only on that basis that she has been declared ineligible.

According to him, the declaring of the petitioner to be ineligible is bad in law for the reason that the third child of the petitioner which was born subsequent to 26.1.2001 since was not with the petitioner and that she is no longer shown as the child of the petitioner for the reason that immediately after her birth she was given in adoption to her sister-in-law on 20.2.2007 and for all practical purposes the child thereafter became the child of the sister-in-law of the petitioner. Therefore the petitioner should not have been put in the list of ineligible candidates.

3. Given the aforesaid submissions which are not in dispute by the either side, the only issue which remains is whether by giving the child born subsequent to 26.1.2001 in adoption to a different parent would thereafter be a disqualification so far as the petitioner is concerned for employment purpose.

4. This Court is of the opinion that the issue raised in the present writ petition already had come up for consideration before this Court in a bunch of writ petitions, decided on 12.9.2003¹, while deciding the provisions of Section 36(1)(m) of the Panchayat Raj Adhiniyam, wherein similar provision of law has been enacted by the State Government and which was challenged before the High Court. The High Court vide its judgement dated 12.9.2013 upholding the enactment had dismissed the bunch of writ petitions and the same has in due course of time attained finality.

5. Once when the provision of law has been held to be proper and justified by the Division Bench of this Court, this court finds it difficult to take a different view than what has been taken by the Division Bench in the said writ petition of Yashwant Kumar Sahu (supra). So far as the present writ petition is concerned wherein the clause in the advertisement is similar to the provision which was under challenge in the case of Yashwant Kumar Sahu (supra).

1 2004 (2) MPHT 79 CG (Yashwant Kumar Sahu v. State of Chhattisgarh & Others)

6. Moreover, the another aspect which cannot be lost sight is the fact that both these recruitments, one in the year 2009 and the other in the year 2013, in due course of time have been acted upon and already concluded and all the selected candidates also being granted appointment by the respondents and in both these writ petitions none of the selected candidates have been made parties or respondents. On this ground also this Court may find it difficult to quash the advertisement at this juncture for non joinder of necessary parties or direct the respondents to consider the case of the petitioner.

7. Both these writ petition thus fail and are accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge

/sharad/