

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 779 of 2018**

*{Arising out of order dated 07.09.2018 passed by learned Single Judge in Writ Petition
(S) No. 3631 of 2010}*

- Smt. Sumitra, wife of Durga Prasad, aged about 30 years, resident of Tandipar, District Sarangarh, District Raigarh (C.G.)

---- Appellant**Versus**

1. Smt. Chuneshwari, wife of Girjanand, aged about 21 years, resident of village Tandipar, Tahsil Sarangarh, District Raigarh (C.G.)
2. State of Chhattisgarh Through Secretary, Department of Panchayat and Gramin Vikas D.K.S. Bhawan, now Mahanadi Bhawan, Mantralaya New Raipur, District Raipur (C.G.)
3. Collector, Raigarh, District Raigarh (C.G.)
4. Project Officer, Ekikrit Bal Vikas Pariyojna, Sarangarh, District Raigarh (C.G.)
5. Chief Executive Officer, Janpad Panchayat, Sarangarh, Raigarh (C.G.)

---- Respondents

For Appellant	:	Shri Manoj Kumar Jaiswal, Advocate.
For Respondent Nos.2 to 5/State	:	Shri U.N.S. Deo, Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu****Judgment on Board****Per Ajay Kumar Tripathi, Chief Justice****27.11.2018**

1. Heard counsel for the Appellant and learned Government Advocate for the State.

2. Writ application was filed by the private Respondent (in appeal) against cancellation of order of her appointment/engagement as an Aganbadi worker for village Tandipar, Panchayat Tandipar, Janpad Sarangarh, District Raigarh by the Chief Executive Officer by his order dated 03.10.2008. Her effort at assailing the said decision before the Collector, Raigarh also failed since the appeal stood dismissed on 05.10.2010. Thereafter, she chose to move the High Court by filing a writ application assailing both the decisions.
3. As per assertion in the writ application, on the basis of a publication issued by the Competent Authority on 30.05.2008, the private Respondent applied and she came to be selected and appointed on 03.10.2008. She joined on 13.10.2008 and started performing her responsibility as an Aganbadi worker.
4. The present Appellant, who was Respondent No.5 in the writ application, filed complaints against the selection of the private Respondent on the ground that she was not married to one Girjanand at the time when her selection was made, therefore, she was not 'Bahu' of the village which disentitled her from the said selection. In support thereof, a priest of a temple was put up as a witness who deposed that he performed the marriage on 12.03.2009.
5. The matter did not rest there. Further enquiries were held. Evidence including inclusion of the name of the private Respondent in the voter list as well as other findings emerged which pointed towards marriage of the private Respondent with Girjanand of the village prior to her appointment. It was an dishonest effort to dislodge the private Respondent and deny her the benefit of appointment on false allegations.
6. Taking those facts into consideration, the learned Single Judge recorded the following findings:

“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 01.01.2009 and in the said voter list at Sl. No. 881 reflected the name of the petitioner and her husband to Girjanad. If the voter list as it stands on 01.01.2009 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 23.04.2008 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 23.04.2008."

"6. Once when it is established that the statement of Bhuneshwar Prasad Tiwari is doubtful and the fact that there was 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 23.04.2008 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 13.04.2008 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 23.04.2008 particularly when the fact that the alleged marriage of the petitioner with Girjanand on 12.03.2009 getting falsified in the light of the name of the petitioner being reflected in the voter list is concerned."

7. Based on the above materials, the learned Single Judge set aside the decision and orders dated 09.06.2009 issued by Chief Executive Officer as well as order dated 05.07.2010 passed by the Collector, Raigarh and upheld the appointment of the private Respondent to be legal and valid. In fact, the Court allowed her continuance on the post since she had been granted interim protection. In this background, the above appeal has been filed assailing the order of the learned Single Judge dated 07.09.2018.
8. There could have been occasion for us to interfere with the order provided the learned Single Judge by ignoring evidence rendered his opinion. Nothing is pointed out in appeal. No clinching evidence which otherwise would have demolished the findings has been pressed into service. We have also not be

told as to what legal infirmity has otherwise been committed by the learned Single Judge.

9. In absence of any of these, we do not find that the learned Single Judge has committed any error by taking into consideration the materials establishing the marriage of the private Respondent with Girjanand on 23.04.2008 i.e. prior to the selection and appointment of the private Respondent.
10. In the above background the appeal has no merit it is dismissed.

Sd/-

(Ajay Kumar Tripathi)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge