

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 7681 of 2018**

Smt. Uravashi Banjare W/o Shri Shatruhan Banjare, Aged About 35 Years, R/o Village Karankapa, Janpad Panchayat, Takhatpur, Police Station Takhatpur, District- Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Women And Child Development, Mantralaya Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The Collector Cum District Programme Officer (MANREGA) District- Bilaspur, Chhattisgarh
3. The Chief Executive Officer, Janpad Panchayat Takhatpur, District- Bilaspur, Chhattisgarh
4. The Chief Executive Officer, District- Panchayat Bilaspur, Chhattisgarh
5. Smt. Versha Mahle W/o Shri Dilharan Mahle R/o Village Karankapa, Janpad Panchayat, Takhatpur, Police Station Takhatpur, District- Bilaspur, Chhattisgarh

... Respondents

For Petitioner	:	Shri Chandradeep Prasad, Advocate
For State	:	Shri Ratan Pusty, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****27/11/2018**

The challenge in the present writ petition is to the order dated 03.10.2018 Annexure P-1 whereby it has been ordered by respondent no.4 that the petitioner has been wrongly given appointment as on verification it

has been found that the petitioner has got 3 children and the third child being born subsequent to the cut off date given in the notification.

2. Contention of the petitioner is that the third child which was born has been given in adoption to the brother of her husband and therefore the same cannot be any further counted as the child of the petitioner.

3. The issue raised in the instant case stands already decided by this Court in the case of Laxman Prasad Jangde Vs. State of Chhattisgarh and 3 others in WPC No. 3027 of 2008 decided on 22.09.2008. More recently, the Supreme Court in the case of Minasingh Majhi Vs. The Collector, Nuapada & another, decided on 24.10.2018 in Civil Appeal No. 6525 of 2010, in an identical issue has made the following observations:

“7. We may also take note of the contention advanced by the learned counsel for the appellant in the light of the provisions contained in [Section 2\(2\)](#) of the 1956 Act, which makes the provisions of the said Act inapplicable to the Members of the Scheduled Tribes to which category the appellant belongs. There has been no challenge to the provisions of [Section 2\(2\)](#) of the 1956 Act before the High Court or even before this Court. We will, therefore, proceed on the basis that the provisions of 1956 Act do not apply to the case of the appellant in which event the contention advanced that the adopted child, under the Act, had ceased to be a member of the appellant's family having become a member of the Family of the adoptive parents, will have no legs to stand. ”

4. Given the said facts more particularly taking into consideration the rule position as it stands, the fact is that since the rule itself provides disqualification of a person from getting employment in the event of there being three children and the third child having been born subsequent to the cut off date and the rule having not been challenged or the rule having not been recalled or withdrawn by the authority, the action on the part of the respondents in discontinuing the services of the petitioner when they came

to know about the illegality cannot be said to be either contrary to the rules or in any manner malafide or illegal.

5. Given the said facts, this Court does not find any strong case made out calling for an interference with the impugned order. The writ petition deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge