

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 3630 of 2007

Tombai D/o Dilip Singh Kunwar, aged about 20 years, R/o village Patharri, Gram Panchayat Patharri, Tahsil and District Mahasamund (C.G.).

---Petitioner

Versus

1. Director Panchayat, Directorate of Panchayat, Chhattisgarh, Raipur (C.G.).
2. Collector, Mahasamund (C.G.).
3. Chief Executive Officer, Janpad Panchayat Pithora, Tahsil and District Mahasamund (C.G.).
4. Project Officer, Mahila Avam Bal Vikas, Janpad Panchayat Pithora, Tahsil and District Mahasamund (C.G.).
5. Smt. Krishna Sinha W/o Narayan, R/o Village Khusru Pali, Gram Panchayat Jamhar, Tahsil Pithora, District Mahasamund (C.G.).
6. Kamleshwari W/o Sunderlal Singh, R/o Village Khusru Pali, Gram Panchayat Jamhar, Tahsil Pithora, District Mahasamund (C.G.).
7. Chandrika W/o Bheranram Sinha, R/o Village Khusru Pali, Gram Panchayat Jamhar, Tahsil Pithora, District Mahasamund (C.G.).

---Respondents

For petitioner	:	Shri Raghvendra Pradhan, Advocate.
For resp.No.3	:	Shri Abhishek Sharma on behalf of Shri Roop Naik, Advocate.
For State	:	Ms. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/02/2019

1. The challenge in the present Writ Petition is to the order dated 23/05/2007 passed by the Director Panchayat in Revision Case No. 80/A-89/2006-07.

2. The facts of the case in brief is that, the petitioner was originally a resident of village Pithora, District Mahasamund. The petitioner got married to one Devsharan on 03/03/2006. After marriage the petitioner has started living at her matrimonial home with her husband and in-laws at village Khusrupali, Tahsil Pithora, District Mahasamund.

3. Subsequent to her shifting to her matrimonial home, an advertisement was issued for filling up the post of Anganbadi Worker at different Anganbadi Centres at District Mahasamund including the Anganbadi Centre at Khusrupali. The petitioner had also applied for the same. The Gram Panchayat subsequently vide resolution dated 02/04/2006 recommended the name of the petitioner to be appointed as an Anganbadi Worker for Anganbadi Centre at Khusrupali.

4. Lateron, an order of appointment was issued on 21/11/2006 in favour of the petitioner and on the basis of the said order of appointment, the petitioner joined the services on 04/12/2006.

5. Subsequently, the respondent No.5 preferred an appeal before the Collector challenging the appointment of the petitioner. The Collector vide order dated 31/01/2007 - Annexure-P/6 dismissed the appeal of the respondent No.5.

6. The respondent No.5 thereafter preferred a revision petition before the Director Panchayat and the Director Panchayat vide the impugned order dated 23/05/2007 allowed the revision and have set-aside the order of the Collector dated 31/01/2007 and also had set-aside the appointment of the

petitioner dated 21/11/2006. It is this order which is under challenge in the present Writ Petition. The only ground of setting aside the appointment of the petitioner was that she was not a resident of the village Khusrupali as she had come on marriage just a few days back.

7. By virtue of an interim order, the petitioner still continues to discharge her duties as an Anganbadi Worker at the Anganbadi Centre, Khusurpali.

8. The contention of the counsel for the petitioner is that, the finding arrived at by the Director Panchayat is totally bad in law for the reason that, there is no dispute between the parties so far as the petitioner having married Devsharan on 03/03/2006. Devsharan is the resident of village Khusrupali. From the date of marriage, the petitioner is residing with her husband at Khusrupali. According to the counsel for the petitioner, since the petitioner has got married and shifted to her matrimonial home, for all practical purposes she has to be accepted as the resident of that village from the date of marriage onwards. Therefore, the finding of the Director Panchayat while passing Annexure-P/1 - the impugned order is bad in law and is not justified and thus prayed for setting aside the same.

9. The counsel for the respondents however opposing the petition submits that, it is a case where the marriage took place on 03/03/2006 and the advertisement was issued barely 5 days after marriage i.e. on 08/03/2006 and therefore within short span of this 5 days of marriage, the petitioner could not have been treated as a permanent resident of village Khusrupali

and thus the finding of the Director Panchayat being justified does not warrant any interference and thus prayed for rejection of the Writ Petition.

10. Having gone through the contentions put forth on either side and on perusal of record what clearly reflect is that, there is no dispute so far as the marriage of the petitioner being held in village Khusrupali. There is also no dispute that from the date of marriage, the petitioner is residing at the said village. Further what also has to be seen is that, the moment the petitioner married Devsharan and have left her parental home and shifted to Khusrupali, she no longer can be said to be a permanent resident of her parental home i.e. Pithora as she has to be accepted as the member of the family in which she has come after marriage. The petitioner as such cannot be put to a situation where after marriage, she may not be treated as the resident of her parental village any further and at the same time she having married for short period of time would also not be accepted as the resident of the village where she lives after marriage.

11. In the instant case, since the factual aspect is not in dispute so far as shifting of petitioner subsequent to her marriage to the matrimonial home which is Khusrupali, the finding given by the Director Panchayat does not seem to be justified in any manner.

12. Moreover, what is also to be seen is that, the marriage took place on 03/03/2006 and the order of appointment was finally issued on 21/11/2006. For all these period also, the petitioner continued to remain at the matrimonial home which since has become her permanent residence.

13. For all the aforesaid reasons, the Writ Petition stands allowed. The impugned order dated 23/05/2007 stands set-aside/quashed and as a consequence, the order of the Collector dated 31/01/2007 and the order of appointment dated 21/11/2006 is held to be proper, legal and justified.

14. The Writ Petition accordingly stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit