

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 364 of 2019

Smt. Deepa Shri Dhritlahare W/o Shri C.P. Dhritlahare Aged About 30 Years
R/o Girls Hostel Compound Dabarabhatha Tahsil Kawardha District
Kabirdham Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Adim Jati Tatha Anusuchit Jati Vikas Vibhag Mantralaya Mahanadi Bhawan New Raipur Chhattisgarh.
2. The Collector Kabirdham District Kabirdham Chhattisgarh.
3. The Assistant Commissioner, Aadiwasi Vikas Kabirdham Chhattisgarh.
4. The District Education Officer, Kabirdham District Kabirdham Chhattisgarh.
5. Smt. Savitri Dhurve Teacher Panchayat Government Middle School Bamhani Block Kawardha District Kabirdham Chhattisgarh.
6. Smt. Lata Talware, Assistant Teacher (LB), Aasiwasi Balak Aashram Samnapur, Block Bodla District Kabirdham Chhattisgarh

---Respondents

For Petitioner	:	Mr. Rishi Rahul Soni, Advocate
For State	:	Mr. Saleem Kazi, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/01/2019

1. The grievance of the petitioner in the present writ petition is the order Annexure P/2 dated 13.12.2018, as also the order dated 27.11.2018 Annexure P/1.
2. The relevant facts for adjudication of the present writ petition is that the petitioner substantively is a Teacher (Panchayat) working at the Anusuchit Jati Shaskiya Kanya Ashram, Dabrabhata, Block Kawardha, District Kabirdham. While working as a Teacher (Panchayat), the State Government had vide its order dated 09.12.2010 (Annexure P/5) posted the respondent No.5 at the said Ashram as a Hostel Superintendent. This order was questioned by the petitioner in WPS No. 4463/2018. The said writ petition got disposed of on 16.07.2017 by directing the petitioner to approach the

respondents by way of representation and the representation, in turn, should be decided by the respondents within a period of 45 days.

3. Pursuant to the disposal of the writ petition on 16.07.2018, the respondents have passed an order Annexure P/1 dated 27.11.2018 rejecting the representation. Subsequent to the rejection of the representation, the respondents have now passed a fresh order Annexure P/2 dated 13.12.2018, whereby the respondent No.6 has been brought in as a Hostel Superintendent without disturbing the substantive posting of the petitioner. It is this order, by which the petitioner is aggrieved of. The petitioner has challenged the same on the ground that the respondent No.6 is an Assistant Teacher i.e. Shiksha Karmi Grade-III, whereas the post of Hostel Superintendent can be given only to a person substantively holding a post of Teacher (Panchayat) equivalent to Shiksha Karmi Grade-II.
4. On a query being put to the counsel for the petitioner, he only submits that the petitioner has been discharging the duties as a Hostel Superintendent for last 7 years. The charge of Hostel Superintendent was given to the petitioner on account of the post of Teacher (Panchayat) that she was holding. According to the petitioner, now the petitioner cannot be replaced by a person, who is lower in rank or who otherwise cannot be given the charge of the Hostel Superintendent.
5. Since the substantial appointment of the petitioner is that of Teacher (Panchayat) and that there is no order adversely affecting the status of the petitioner that of Teacher (Panchayat), this Court finds it difficult to entertain the present writ petition, as there is no substantive right created in favour of the petitioner for the post of Hostel Superintendent. The writ petition, for the said reason, would not be maintainable.

6. However, it is noteworthy to mention at this juncture that once when it is a policy decision of the respondents that the post of Hostel Superintendent can only be given to a person of the rank of Teacher (Panchayat), under no circumstances, could the respondents have given the said post to a person lower in rank.
7. The respondents, therefore, should take all necessary steps in ensuring that the post of Hostel Superintendent is given to a person, who is otherwise eligible to hold the said post, which includes the claim of the petitioner for the said post.
8. Let the respondents on the administrative side take an appropriate decision in this regard at the earliest.
9. With the aforesaid observations, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved