

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 3065 of 2009**

- Smt.Giteshwari Sahu, W/o Shri Govind Ram Sahu, Aged about 26 years, R/o Chotmarra, Gram Panchayat Ghotmarra, Tahsil-Berla, District Durg.

---- Petitioner**Versus**

1. State Of Chhattisgarh through the Secretary Panchayat Department D.K.S. Bhawan, Raipur (C.G.)
2. District Scheme Officer, Women & Child Development, Panch Building, District Durg (C.G.).
3. Collector, Durg, District Durg, C.G.
4. Project Officer, Women and Child Development Officer Berla, District Durg (C.G.)
5. Gram Panchayat Ghotmarra, Tahsil- Berla, District Durg, C.G.
6. Ku. Savitri Sahu, D/o Motiram Sahu, Aged about 27 years R/o Village Chotmarra, Gram Panchayat, Ghotmarra, Tahsil- Berla, District-Durg C.G.

---- Respondents

For Petitioner	:-	Ms. Pragya Pandey, Advocate & Ms. Prakritee Jain, Advocate on behalf of Shri Prateek Sharma, Advocate.
For Respondent-State	:-	Shri Avinash Choubey, PL.
For Respondent No.6	:-	Shri Jitendra Gupta, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

05/12/2019

1. Heard.
2. Petitioner and respondent No.6 were candidates for the post of Anganbadi worker for Anganbadi centre, Chotmarra, Gram Panchayat Ghotmarra, Block Berla, District- Durg (Now Bemetara).
3. By order dated 19.01.2007, petitioner was appointed to the post which was challenged by the respondent No.6 by preferring WPS No. 2009 of 2007.
4. In the said Writ Petition, the petitioner therein was directed to approach the Collector-Durg who shall decide the matter after hearing the parties. Thereafter, the Collector dismissed the appeal preferred by respondent No.6 against which she preferred the revision application before the Director (Panchayat) which was allowed vide the impugned order, Annexure-P-6 dated 19.08.2008. It is this order which is assailed in this petition together with consequent order vide Annexure-P-1 by which petitioner's appointment was canceled.
5. Admittedly, the candidature of respondent No.6 was not considered as she was found ineligible on the ground that

her father's elder brother is a government servant.

6. According to the petitioner, the State Government's circular dated 06.01.2000 provided that near relative of a government servant cannot be appointed as Anganbadi worker, therefore, the elder brother of father of respondent No.6 being a government servant she was not eligible.
7. In the circular dated 06.01.2000 Annexure-P-5 the term "near relative" is not defined, therefore, the definition of the said term as provided in the explanation to Section 69 (1) of the C.G. Panchayat Raj Adhiniyam, 1993 (in short 'the Act, 1993') is required to be looked into. The said provision would apply because Department of Panchayat is the Administrative Department for dealing with the affairs of Panchayats together with Anganbadi worker. It is also for the reason that in a subsequent circular dated 02.04.2008 bearing no. 728/1098/2008/WCD/50, the State Government has provided in paragraph 1.8 that relatives of the people's representatives and government servant as defined under the Act, 1993 may apply but the said government servant or the office bearer shall not participate in the selection process. In the definition provided in the explanation to sub-section (1) of Section 69 of the Act, 1993, elder brother of the father of the candidate is not considered to be a relative. Thus, the candidature of respondent No.6 was wrongly held

ineligible. In the above circumstance, after the order passed by the Director, the order impugned Annexure – P/1 has been passed canceling the appointment of the petitioner.

8. It is informed by the learned counsel for respondent No.6 that after the cancellation of petitioner's appointment the respondent No.6 has been appointed to the post and she is working continuously from the year 2009.
9. In view of the above discussion, it is held that the respondent No.6's candidature was wrongly held ineligible, therefore, petitioner's appointment has rightly been canceled.
10. There is no substance in the writ petition. Accordingly, the writ petition deserves to be and is hereby dismissed.

SD/-
(**Prashant Kumar Mishra**)
Judge

Ayushi