

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.2799 of 2011**

- Poonam Mishra, W/o Vidyanand Mishra, aged about 23 years, R/o Village and Post in Front of Tahsil Office, Sitapur, District Sarguja (C.G.)

----- Petitioner**Versus**

- 1.State of Chhattisgarh through the Secretary, Department of Panchayat and Rural Development, DKS Bhawan, Mantralaya, Raipur (C.G.)
- 2.Collector, Sarguja, District Sarguja (C.G.)
- 3.Zila Panchayat, Sarguja, through its Chief Executive Officer, District Sarguja (C.G.)
- 4.Janpad Panchayat, Sitapur, through its Chief Executive Officer, District Sarguja (C.G.)
- 5.Chief Executive Officer, Janpad Panchayat, Sitapur, District Sarguja (C.G.)
- 6.General Administrative Standing Committee (Jan Bagidhari Samiti), Janpad Panchayat, Sitapur, District Sarguja (C.G.)

----- Respondents

For Petitioner	Mr. Animesh Verma, Advocate
For Respondent-State	Mr. Siddharth Dubey, Dy. GA

Hon'ble Justice Shri Sanjay K. Agrawal**Order On Board****19/08/2021**

1. Proceedings of this matter have been taken up through Video Conferencing.
2. This writ petition is directed against the order dated 22.10.2010 (Annexure-P/1) passed by the respondent No.5, by which the petitioner's appointment on the post of Shiksha Karmi Grade-III has been found forged and she has been restrained from teaching in the government schools.
3. When the matter is taken up for hearing, Mr. Siddharth Dubey, learned State counsel, would submit that the order is appealable before the Collector under Rule 13 of the Chhattisgarh Panchayat Shiksha Karmi (Recruitment and Conditions of Service) Rules, 2007 (hereinafter would be referred to as 'the Rules, 2007'). On the other hand, Mr. Animesh Verma, learned counsel for the petitioner, would submit that the impugned order is not an order of termination, therefore, no appeal would lie against the order.
4. I have heard learned counsel for the parties, considered their rival submissions made

herein-above and went through the records with utmost circumspection.

5. A careful perusal of the impugned order would show that in the second round of litigation after providing proper opportunity of hearing to the petitioner, the petitioner's appointment on the post of Shiksha Karmi Grade-III has been found forged and it has clearly been recorded by the respondent No.5 that the petitioner has never been selected by the Janpad Panchayat, Sitapur on the post of Shiksha Karmi Grade-III nor any appointment order has been issued in her favour and she has been restrained from teaching in the government schools. Infact in the impugned order, it has clearly been held that the petitioner has never been appointed on the post of Shiksha Karmi Grade-III nor any appointment order has been issued in her favour, therefore, it amounts to an order of termination against the petitioner. In that view of the matter, the petitioner is relegated to the remedy of appeal before the Appellate Authority i.e. the Collector in

terms of Rule 13 of the Rules, 2007, as the question as to whether the appointment of the petitioner on the post of Shiksha Karmi Grade-III has been claimed by forged document or not is a pure and simple question of fact and that may be considered by the Appellate Authority on the basis of the material available on record and it would be absolutely inappropriate for this Writ Court to entertain this writ petition. This Court is also not unoblivious of the fact that the present writ petition is pending since 16.05.2011, but considering the pure and simple question of fact which is involved in the present writ petition, this Court has no option except to remit the matter to the Appellate Authority to consider and decide the case of the petitioner. If the petitioner prefers an appeal before the Appellate Authority, the respondent No.2, Collector, District Sarguja under Rule 13 of the Rules, 2007 within 30 days from today, the Appellate Authority shall consider and decide the petitioner's appeal within next 3 months by a reasoned and speaking order after hearing the petitioner.

Since the writ petition has remained pending for last 10 years before this Court, the Appellate Authority will be obliged to pass order on merits.

6. With the aforesaid observation and direction, the writ petition stands disposed of. No order as to cost (s).

Sd/-
Sanjay K. Agrawal
Judge

Nirala