

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.6732 of 2011

Basanti, D/o Shivratan, aged about 31 years, R/o Parsagudi, Tahsil Rajpur, Surguja, District Surguja (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Women & Child Welfare Department, D.K.S. Bhawan, Raipur, District Raipur (C.G.)
2. Collector, Surguja, District Surguja (C.G.)
3. Chief Executive Officer, Janpad Panchayat, Rajpur, District Surguja (C.G.)
4. District Project Officer, Women & Child Welfare Department, Collectorate Premises, Ambikapur, District Surguja (C.G.)
5. Upper Collector, Surguja, District Surguja (C.G.)
6. Smt. Anita Kujur, W/o Not known to the petitioner, R/o Village Parsagudi, Tahsil Rajpur, District Surguja (C.G.)
7. Smt. Sunita Lakda, W/o Not known to the petitioner, R/o Village Parsagudi, Tahsil Rajpur, District Surguja (C.G.)

---- Respondents

Writ Petition (S) No.6733 of 2011

Sharda Singh, D/o Ramlal Singh, aged about 32 years, R/o Village Navaki, Tahsil Rajpur, Surguja, District Surguja (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Women & Child Welfare Department, D.K.S. Bhawan, Raipur, District Raipur (C.G.)
2. Collector, Surguja, District Surguja (C.G.)
3. Chief Executive Officer, Janpad Panchayat, Rajpur, District Surguja (C.G.)
4. District Project Officer, Women & Child Welfare Department, Collectorate Premises, Ambikapur, District Surguja (C.G.)
5. Upper Collector, Surguja, District Surguja (C.G.)
6. Smt. Sushila, W/o Jaipal, R/o Village Navaki, Tahsil Rajpur, District Surguja (C.G.)
7. Smt. Shradwani, W/o Not known to the petitioner, R/o Village Navaki, Tahsil Rajpur, District Surguja (C.G.)

---- Respondents

AND

Writ Petition (S) No.6735 of 2011

Sarita Singh, D/o Ramanuj Singh, aged about 38 years, R/o Village Navaki, Tahsil Rajpur, Surguja, District Surguja (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Women & Child Welfare Department, D.K.S. Bhawan, Raipur, District Raipur (C.G.)
2. Collector, Surguja, District Surguja (C.G.)
3. Chief Executive Officer, Janpad Panchayat, Rajpur, District Surguja (C.G.)
4. District Project Officer, Women & Child Welfare Department, Collectorate Premises, Ambikapur, District Surguja (C.G.)
5. Upper Collector, Surguja, District Surguja (C.G.)
6. Ku. Champa, D/o Not known to the petitioner, R/o Village Navaki, Tahsil Rajpur, District Surguja (C.G.)
7. Smt. Durga Devi, W/o Not known to the petitioner, R/o Village Navaki, Tahsil Rajpur, District Surguja (C.G.)

---- Respondents

For Petitioners: Mr. Manoj Paranjpe, Advocate.

For Respondents No.1, 2, 4 and 5 / State: -

Mr. Sunil Otwani, Additional Advocate General.

For Respondents No.3, 6 and 7: -

None present.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

19/07/2021

1. Proceedings of these matters have been taken-up through video conferencing.
2. Since common question of law and fact is involved in all these three writ petitions, they were clubbed together and heard together and are being disposed of by this common order.
3. The petitioners are duly appointed Aanganbadi Workers and posted at Aanganbadi Centres: Mahadevpara, Barpara and Kadpara, Tahsil

Rajpur, District Surguja by order dated 23-5-2011. It is the case of the petitioners that they are duly appointed Aanganbadi Workers and they are working on the said post, but by the impugned order dated 20-10-2011 (Annexure P-1), the District Program Officer held that they are not qualified to be appointed on the post of Aanganbadi Workers and at the instance of the Additional Collector, set aside their appointment on the said post and directed for issuance of other appointment orders within one week and to ensure sending of compliance report within 15 days. The aforesaid order has been sought to be questioned in these writ petitions.

4. Return has been filed on behalf of the State / respondents No.1, 2, 4 and 5 supporting the order of the Additional Collector stating that the order is in accordance with law.
5. The private respondents have not entered into appearance and they have not filed response also.
6. Mr. Manoj Paranjpe, learned counsel appearing for the petitioners, would submit that before passing the impugned order Annexure P-1, the petitioners have not been heard and no opportunity of hearing has been given to them and the impugned order has been passed which is in violation of the principles of natural justice and in teeth of the decision rendered by the Supreme Court in the matter of Nisha Devi v. State of Himachal Pradesh and others¹.
7. Mr. Sunil Otwani, learned State counsel, would support the impugned order and submit that the petitioners were not entitled for additional marks of 15 and therefore they were not entitled to be qualified and posted on the post of Aanganbadi Worker, their appointment on the said post is of totally temporary nature and it can be cancelled at any point of time without giving opportunity of hearing and as such, they have not

¹ (2014) 16 SCC 392

been given opportunity of hearing before passing the order impugned.

8. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.
9. It is not in dispute that the petitioners were duly appointed Aanganbadi Workers and were working on the said post, their appointment was enquired into by the enquiry committee and certain discrepancies were found which were noticed by the Additional Collector and by the impugned order, their appointment was directed to be cancelled which has been approved by the Collector also. But, admittedly and undisputedly, the petitioners were neither noticed nor they have been given reasonable opportunity of being heard to defend their appointment on the post of Aanganbadi Worker and their appointment order has been directed to be cancelled. In Nisha Devi (supra), the Supreme Court has considered the issue and observed as under: -

“4. In the course of arguments addressed before us, the fervent submission of the counsel for the appellant that she was not afforded any opportunity of being heard has not been controverted, inasmuch as it has been contended that the report of the Tehsildar was based on revenue records, which, therefore, was presumed to be correct. The High Court has acted upon this one-sided or unilateral report of the Tehsildar in arriving at the conclusion that the appellant indeed had an income in excess of rupees twelve thousand per annum and, accordingly, was ineligible for appointment as an Anganwadi worker.

5. Trite though it is, we may yet again reiterate that the principle of audi alteram partem admits of no exception, and demands to be adhered to in all circumstances. In other words, before arriving at any decision which has serious implications and consequences to any person, such person must be heard in his defence. We find that the High Court did not notice the violation and infraction of this salutary principle of law. Accordingly, on this short ground, the impugned judgments and orders require to be set aside, and are so done. The matter is remanded back to the Divisional Commissioner for taking a fresh decision after giving due notice to the appellant and affording her an opportunity of

being heard. The Divisional Magistrate, Kullu, shall complete the proceedings expeditiously, and not later than six months from the date on which a copy of this order is served on him.”

10. Reverting to the facts of the case and following the principles of law flowing from the decision rendered by the Supreme Court in Nisha Devi (supra), it is quite vivid that the order directing cancellation of the petitioners’ appointment on the post of Aanganbadi Worker without hearing them and without affording them reasonable opportunity of defending themselves, is clearly arbitrary and contrary to the well settled law in this behalf as held by the Supreme Court in Nisha Devi (supra), as their appointment could not have been directed to be cancelled beyond their back without giving them opportunity of hearing and without asking them to defend themselves by filing reply, if any. Consequently, the orders Annexure P-1 in all the three writ petitions are hereby set aside and the matter is remitted to the Collector / Additional Collector for hearing the petitioners and thereafter to pass a reasoned and speaking order, in accordance with law, within two months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the matter.
11. With the aforesaid observation and direction, the writ petitions stand finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge