

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.2391 of 2010

Pradeep Panigrahi, S/o Shri Yadupati Panigrahi, aged about 30 years,
R/o Village Binta, Tehsil Jagdalpur, District Bastar (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through Secretary, Panchayat and Rural Development, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. The Additional Collector, Jagdalpur, District Bastar (C.G.)
3. Chief Executive Officer, Janpad Panchayat, Lohandiguda, District Bastar (C.G.)
4. Gram Panchayat Sataspur, Through Sarpanch, Sataspur, Lohandiguda, District Bastar (C.G.)
5. Naveen Panigrahi, S/o Shri Champeshwar Panigrahi, aged about 32 years, R/o Village Binta, Tehsil Jagdalpur, District Bastar (C.G.)
6. Chief Executive Officer, Janpad Panchayat, Khairagarh, District Rajnandgaon (C.G.)

---- Respondents

For Petitioner: Mr. Anand Mohan Tiwari, Advocate.

For Respondents No.1 and 2 / State: -

Mr. Animesh Tiwari, Deputy Advocate General.

For Respondent No.3: -

Mr. Sunil Otvani, Advocate.

Respondent No.5: Mr. Subhash Yadav, Advocate.

Respondents No.4 and 6: -

None present, though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

11/08/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner herein calls in question the order of the Additional Collector, Jagdalpur, dated 22-2-2010 (Annexure P-9) affirming the order of the Sub-Divisional Officer (Revenue), Jagdalpur, dated 9-11-

2005 (Annexure P-8) and eventually called in question the order Annexure P-10 dated 12-4-2010 passed by the Chief Executive Officer, Janpad Panchayat, Lohandiguda.

3. Mr. Anand Mohan Tiwari, learned counsel appearing for the petitioner, would submit that though the petitioner was initially appointed by Gram Panchayat, Sataspur on 11-8-2003, but thereafter, he was again appointed on 22-12-2003 by Gram Panchayat, Sataspur as Shiksha Karmi Grade-III on contract basis which he joined on 27-12-2003 and renewed on 7-7-2004 and he was appointed on probation on 30-4-2005 for a period of two years and his services have been regularised on 18-10-2007 on the post of Shiksha Karmi Grade-III and as such, he has already attained the status of regular Shiksha Karmi and even otherwise, the SDO (Revenue) has not set aside the order dated 22-12-2003, but the respondent authorities are seeking charge from the post of Shiksha Karmi Grade-III from the petitioner upon the strength of the order dated 9-11-2005 affirmed by the Additional Collector on 22-2-2010 which is illegal and bad in law.
4. Mr. Sunil Otmani, learned counsel appearing for respondent No.3, would support the action of respondent No.3 Janpad Panchayat.
5. Mr. Subhash Yadav, learned counsel appearing for respondent No.5, would submit that the order of appointment of respondent No.5 dated 11-8-2003 was illegally cancelled by the Chief Executive Officer, Janpad Panchayat, Lohandiguda, by order dated 10-9-2003 which is absolutely illegal and bad in law and therefore it has rightly been set aside by the SDO (Revenue) on 9-11-2005 which has been affirmed by the Additional Collector on 22-2-2010 and as such, the writ petition deserves to be dismissed.

6. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
7. The petitioner and one Balram Mourya were appointed as Shiksha Karmi Grade-III on contract basis on 11-8-2003 by Gram Panchayat, Sataspur and also on the same date i.e. 11-8-2003, respondent No.5 and one Antu Ram Kashyap were also appointed on the post of Shiksha Karmi Grade-III on contract basis. Appointment of the above four persons i.e. the petitioner, Balram Mourya, respondent No.5 and Antu Ram Kashyap was cancelled by the CEO, Janpad Panchayat, Lohandiguda by 10-9-2003 and thereafter, by order dated 19-9-2003, the order dated 10-9-2003 was modified and it was held that in place of cancellation, it be read as stayed. Thereafter, on 22-12-2003, the petitioner was again appointed on the post of Shiksha Karmi Grade-III on contract basis for a period of one year which he joined on 27-12-2003 and it was renewed again by order dated 7-7-2004 and he was again appointed as Shiksha Karmi Grade-III on 30-4-2005 on probation for a period of two years and after completing the period of probation, he was regularised on 18-10-2007 on the post of Shiksha Karmi Grade-III by the competent authority.
8. In the meanwhile, respondent No.5 questioned the order dated 10-9-2003 passed by the CEO, Janpad Panchayat, Lohandiguda and the order dated 22-12-2003 passed by Gram Panchayat, Sataspur in an application filed before the Sub-Divisional Officer (Revenue), Jagdalpur, and the SDO (Revenue) by order dated 9-11-2005 set aside the order dated 10-9-2003, but did not interfere with the order dated 22-12-2003. Being aggrieved by order dated 9-11-2005, only Gram Panchayat, Sataspur preferred appeal before the Additional

Collector, Jagdalpur who dismissed the appeal and affirmed the order of the SDO (Revenue) dated 9-11-2005. Though respondent No.5 was appointed by order dated 11-8-2003 on the post of Shiksha Karmi Grade-III by Gram Panchayat, Sataspur, but it was cancelled by order dated 10-9-2003 by Janpad Panchayat, Lohandiguda, but later-on vide order dated 19-9-2003 (Annexure P-2), instead of cancellation, it was stayed / suspended and as such, order dated 10-9-2003 has merged into order dated 19-9-2003, but it appears that order dated 19-9-2003 has not been questioned by respondent No.5 and only order dated 10-9-2003 was questioned. As such, order dated 19-9-2003 has become final.

9. Similarly, the petitioner was appointed on the post of Shiksha Karmi Grade-III on contract basis by order dated 22-12-2003 and subsequently, he was regularised ultimately, on 18-10-2007. But the fact remains that the SDO (Revenue) did not interfere with the order dated 22-12-2003 appointing the petitioner on the post of Shiksha Karmi Grade-III and the order of the SDO (Revenue) was challenged only by Gram Panchayat and it was not questioned by respondent No.5 and as such, the petitioner's appointment subsequently made on 22-12-2003 on the post of Shiksha Karmi Grade-III has attained finality in absence of having been set aside by the SDO (Revenue) or by the Additional Collector, as it was not challenged further by respondent No.5 after the order of the SDO (Revenue) dated 9-11-2005 and thereafter, the petitioner has also been regularised by order dated 18-10-2007.

10. In the considered opinion of this Court, once order dated 10-9-2003 has merged into order dated 19-9-2003, order dated 10-9-2003 could not have been interfered with by the SDO (Revenue) and could not

have been confirmed by the Additional Collector. Similarly, the petitioner's appointment dated 22-12-2003 though was questioned by respondent No.5, but it was not set aside by the SDO (Revenue) and it was not challenged by respondent No.5, as such, the order of appointment of the petitioner on the post of Shiksha Karmi Grade-III has become final. Consequently, on the strength of order dated 9-11-2005 as affirmed by the Additional Collector by order dated 22-2-2010, the impugned order Annexure P-10 dated 12-4-2010 could not have been issued. The CEO, Janpad Panchayat, Lohandiguda, has committed an error in holding in paragraph 10 of the order dated 12-4-2010 (endorsement) that order dated 22-12-2003 has been set aside by the SDO (Revenue), Jagdalpur which is not the correct view and is contrary to the record. Accordingly, the order dated 12-4-2010 (Annexure P-10) is hereby set aside and to that extent the order of the SDO (Revenue) and that of the Additional Collector will not come in the way of the petitioner in performing his duty on the post of Shiksha Karmi Grade-III.

11. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge