

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 01.02.2021

Order Passed on : 16/03/2021

W.P.(227) No. 6512 of 2011

Smt. Sharda Bai, W/o. Jawahar Lal, Aged About 34 Years, R/o. Village-
Rampur, Tahsil- Kartala, District- Korba Chhattisgarh.

---- Petitioner

Versus

1. Additional Commissioner Bilaspur, Division Bilaspur Chhattisgarh.
2. Collector, Korba, District – Korba (C.G.)
3. District Program Officer, Women and Child Development, Korba,
District – Korba (C.G.)
4. Project Officer, Unified Child Development Project Kartala, District
– Kora (C.G.)
5. Chief Executive Officer, Janpad Panchayat Kartala, District –
Korba (C.G.)
6. Smt. Revti Bai, W/o. Sanjay Kumar, aged about 35 years, R/o.
Village – Rampur, Tahsil – Kartala, District – Korba (C.G.)

---- Respondents

For Petitioner : Mr. F.S. Khare, Advocate

For State/Respondents No.1 to 5 : Mr. Adil Minhaj, Govt. Advocate

For Respondent No.6 : Mr. Goutam Khetrapal, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

16/03/2021

1. This present petition under Article 227 of the Constitution of India has been brought praying to invoke supervisory jurisdiction under Article 227 of the Constitution of India for quashing the impugned orders dated 11.07.2011 (Annexure P-1), passed by the Respondent No.1 in Revision Case No.35/B-121/10-11 and order dated 29.03.2010 (Annexure P-6), passed by the Respondent No.2 in Appeal Case No. 12/B-121/07-08 and the order of appointment of the respondent No.6 dated 12.09.2007 (Annexure P-4).
2. The facts of the case in brief are these, that the petitioner was appointed to the post of Anganbadi Worker. Her appointment was challenged by the respondent No.6 in W.P.(S) No.841/2007, that petition was disposed off by order dated 13.02.2007 and the respondent No.2 was directed to reconsider on the claim of the respondent No.6 and pass appropriate order in accordance with the Anganbadi Scheme and law. The respondent No.3 then reconsidered on the case of this appointment by order dated 12.09.2007 (Annexure P-4) and has appointed the respondent No.6 as Anganbadi Worker. The petitioner then preferred a W.P.(S) No.6498/2007, which was disposed off as withdrawn vide order dated 14.11.2007 (Annexure P-5) with liberty to file appeal before the appropriate authority. The appeal that was preferred by the petitioner was dismissed by the respondent No.2 vide order dated 29.03.2010 (Annexure P-6). Revision that has been preferred

before the respondent No.1 has also been dismissed by order dated 11.07.2011 (Annexure P-1).

3. It is submitted by the learned counsel for the petitioner, that the petitioner was given appointment on the basis of her entitlement that she has secured maximum percentage of marks in Class-8th and that she was a member of scheduled tribe, by order dated 27.01.2007. The reasons that the respondent No.6 was not appointed was this that her BPL card had overwriting and that was not certified. The respondent No.3 has while reconsidering the case of the respondent No.6 on the basis of the direction given by this Court in W.P.(S) 841/2007, totally ignored the previous finding, that the entitlement of the respondent No.6 about being a member of below poverty line was earlier discarded. The respondent No.2 has also cursorily decided the appeal by order dated 29.03.2010 (Annexure P-6) without proper appreciation of facts.
4. It is submitted that in making appointment of respondent No.6, the guidelines for appointment of Anganbadi Worker has been clearly violated. According to the scheme for appointment of Anganbadi Worker, vide circular dated 27.05.1996 (Annexure P-9), the woman member of scheduled caste/scheduled tribe have to be given preference for appointment, wherein, the member of aboriginal tribes are in majority in the area. Further there are special guidelines for removal of Anganbadi Worker given in the same circular, which has also not been followed. The petitioner being a member of scheduled tribe had the best entitlement for

this appointment, whereas, the respondent No.6 is the member of OBC, therefore, her appointment to this post is clearly against the scheme for appointment of Anganbadi Worker. Prayer has been made to quash the impugned orders.

5. State counsel representing the respondents No.1 to 5 opposes the petition and the submissions made in this respect. It is submitted that the impugned orders do not suffer from any infirmity. The scheme and the guidelines by the State Government have been followed in appointment of the respondent No.6. The petitioner had earlier secured appointment by misleading the facts, hence, the cancellation of her appointment was correct. There is no room for interference in the impugned order.
6. Counsel for the respondent No.6 opposes the petition and the submissions made in this respect. It is submitted that earlier the appointment of the petitioner to the post of Anganbadi Worker was against the guidelines and scheme for appointment of Anganbadi Karyakarta. The appointment of the petitioner was challenged by the respondent No.6 in W.P.(S) No.841 of 2007. In pursuance to the direction issued by this Court, the respondent No.3 has passed the order of appointment to the respondent No.6, strictly following the guidelines laid down by the State Government and finding the respondent No.6 was entitled for such appointment. The respondent No.2 has not committed any error in dismissing the appeal and similarly the Commissioner/respondent No.1 has also committed no error in passing the impugned orders. Hence, there

is no reason for entertaining this petition and granting relief to the petitioner.

7. I have heard the learned counsel for the parties and perused the documents placed on record.
8. The guidelines that have been laid down by the State Government in circular No. F-8-3/95/50-2 dated 27.05.1996 (Annexure P-9) mentions about the qualifications for appointment, that the proposed appointee should be voter of the same locality, that such proposed appointee should be acceptable to local community, she should not be related to other authorities or office bearers of the locality. According to the guidelines, preference has to be given for appointment to the members of SC and ST in places where there is majority of such SC & ST community. Another criteria for appointment is with respect to the widowed/deserted woman, who are member of family below poverty line and also member of SC/ST.
9. According to the facts of this case, it is not denied that the petitioner is a member of scheduled tribe and there is no dispute regarding other qualifications. As submitted that respondent No.6 is not a member of scheduled caste or scheduled tribe and the only qualifications for her appointment had been that her name was in the survey list of below poverty line family. Now the question would be which of the qualification has to be given preference for such appointment.

10. On perusal of the circular dated 27.05.1996, it is found that the members of family below poverty line and the members of scheduled caste or scheduled tribe both are equal qualification for appointment to such post. The petitioner, who was earlier appointed as Anganbadi Worker by order dated 27.01.2007 mentioning her qualifications as being of scheduled tribe, appears to be in accordance with the guidelines for appointment of Anganbadi Worker, while canceling her appointment, respondent No.3 has not given any specific reason.
11. The criteria for appointment of the petitioner was that, she had secured more marks in Class 8th than other candidates and that she is member of scheduled ab-original tribe, which is one of criteria present in the scheme of appointment of Anganbadi Worker. Whereas the criteria for appointment of respondent No.6 is only one, that she belongs to below poverty line (BPL) category. Respondent No.6 is not the member of scheduled tribe. Further, there is no such mention in her appointment order, that she has secured more marks in Class 8th or more educated than the petitioner, hence, it is found that the opinion formed by the appointing authority that respondent No.6 has the best entitlement for appointment to the post of Anganbadi Worker appears to be erroneous for the reason that the petitioner belongs to scheduled tribe category, she has studied upto class-8th, in which she has secured more marks in comparison to other candidates, therefore, she had better entitlement and as such, appointment of respondent No.6 on the post of Aaganbadi Worker appears to be

erroneous.

12. Hence, on this basis the petition is allowed. The impugned orders dated 11.7.2011 (Annexure-P/1), passed by the Additional Commissioner, Bilaspur; the order of the Collector dated 29.03.2010 (Annexure-P/6) and the appointment order of respondent No.6 dated 12.9.2007 (Annexure-P/4) are hereby quashed. Respondent No.5 is directed to reinstate the petitioner on the post of Anganbadi Worker by virtue of her appointment order dated 27.01.2007.
13. Accordingly, the petition is allowed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram/
Nisha