

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1274 of 2021**

Brijeshwari D/o Shri Manraj Singh, Aged About 21 Years, R/o Village Newsa Navapara, Tahsil Pendra-road, District Gaurela-Pendra-Marwahi, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Indrawati Bhawan, Nawa Raipur District Raipur, Chhattisgarh
2. Commissioner, Bilaspur Division, District Bilaspur, Chhattisgarh
3. Additional Commissioner, Office Of Commissioner, Bilaspur Division, District Bilaspur, Chhattisgarh
4. Collector, District Bilaspur, Chhattisgarh
5. Collector, District Gaurela-Pendra-Marwahi, Chhattisgarh
6. Chief Executive Officer, Janpad Panchayat Gaurela, District Gaurela Pendra Marwahi, Chhattisgarh
7. Sarita Bai D/o Kanwar Singh, Aged About 26 Years, R/o Village Newsa Navapara, Tahsil Pendra-road, District Gaurela-Pendra-Marwahi Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Achyut Tiwari, Advocate
For State	:	Mr. Aditya Bhardwaj, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

02.03.2021

1. The grievance of the petitioner in the present writ petition is the issuance of the order Annexure P-2 dated 11.02.2021 by the Chief Executive Officer, Janpad Panchayat Gaurela.
2. The facts of the case are that the petitioner was appointed as an

Anganbadi Worker at Anganbadi Kendra Lotantola, Tahsil Pendraroad on 11.12.2017. The appointment of the petitioner was subjected to challenge by respondent no.7 before the District Collector, Bilaspur and the District Collector vide order dated 13.01.2020 allowed the appeal of the respondent no.7 holding that the petitioner has been wrongly granted appointment. The order of the District Collector was subjected to appeal firstly before the Director of the Department and thereafter it was transferred to the Divisional Commissioner, Bilaspur. It so happened that meanwhile the District Collector who had passed the order dated 13.01.2020 was promoted to the post of Divisional Commissioner at the same place where the appeal of the petitioner was pending and therefore, the Divisional Commissioner could not entertain the appeal of the petitioner since it was his own order which was under challenge. Thereafter, the matter stood allocated to the Additional Commissioner, Bilaspur Division. However, for a period of one year now the office of Additional Commissioner is also lying vacant and there was no development on the appeal of the petitioner nor even the interim application could be taken up for hearing.

3. Meanwhile, pursuant to the order of the District Collector dated 13.01.2020, the Chief Executive Officer of Janpad Panchayat, Gourela i.e. respondent no.6 has cancelled the appointment order of the petitioner which already is under consideration before the Divisional Commissioner in the form of an appeal pursuant to an order of the District Collector. In the absence of Additional Commissioner, the appeal of the petitioner could not be taken up for a considerable period of time nor could her interim application be pressed. Meanwhile, the respondent no.6 has passed the impugned order dated 11.02.2021.

4. Today, when the matter was taken up for hearing, learned State counsel submitted that there has been a recent development that has arisen and the Divisional Commissioner, Bilaspur has since been transferred and a new Commissioner would come and thereafter the appeal of the petitioner can be heard by the new Divisional Commissioner.
5. Given the said submission by the counsel for the parties, this Court is of the opinion that since the appeal of the petitioner along with an interim application seeking stay of the order dated 13.01.2020 passed by the District Collector is already pending consideration, till the appeal is taken up for hearing by the new Divisional Commissioner on the application for interim relief or on the merits of the appeal as the case may be whichever is earlier, the order passed by the respondent no.6 Annexure P-2 dated 11.02.2021 shall not be given effect to for the reason that even after the order of the Collector dated 13.01.2020 the petitioner was discharging her duties till the impugned order Annexure P-2 was passed.
6. Accordingly, the writ petition stands disposed of directing the office of respondent no.2 to immediately call for the appeal of the petitioner for hearing the same on its own merits including the application for interim relief and an appropriate decision be taken in accordance with law. Meanwhile, the order passed by the respondent no.6 dated 11.02.2021 shall not be given effect to.
7. The writ petition accordingly stands disposed of.

**Sd/-
P. Sam Koshy
Judge**