

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.1910 of 2009

Smt. Vimlesh Kashyap, W/o Bhagwat Kashyap, aged about 26 years, working as Aanganbadi Karyakarta, R/o Village Loharshi, Tah. Pamgarh, District Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Project Officer, Department of Woman and Child Development, Janpad Panchayat, Pamgarh, District Janjgir-Champa (C.G.)
2. Director Panchayat, Chhattisgarh, Raipur (C.G.)
3. The Additional Collector, Janjgir-Champa, District Janjgir-Champa (C.G.)
4. Chief Executive Officer, Janpad Panchayat, Pamgarh, District Janjgir-Champa (C.G.)
5. Smt. Neema Sahu, W/o Ravindra Sahu, aged about 24 years, R/o Village Loharshi, Tah. Pamgarh, District Janjgir-Champa (C.G.)

---- Respondents

For Petitioner: Mrs. Renu Kochar, Advocate.

For Respondents No.1 to 3 / State: -

Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

For Respondents No.4 & 5: -

None present though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

28/07/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner calls in question the order dated 22-1-2009 passed by the Director (Panchayat), whereby her revision has been dismissed affirming the order dated 7-4-2007 passed by the Additional Collector directing issuance of appointment order in favour of respondent No.5 on the post of Aanganbadi Karyakarta at Village Loharsi, Tahsil Pamgarh, District Janjgir-Champa.

3. Select list of Aanganbadi Karyakarta was issued on 27-7-2006 including the name of respondent No.5, but the name of the petitioner was not included against which she raised objection before the Collector which has been sustained and thereafter, a new select list was issued on 9-9-2006 and the petitioner was appointed on the post of Aanganbadi Karyakarta on 9-9-2006, but respondent No.5 was not appointed against which she preferred an appeal on 7-4-2007 before respondent No.3 – Additional Collector and the Additional Collector has allowed the appeal against which the petitioner preferred revision before the Director (Panchayat) which has been dismissed by the impugned order against which this writ petition has been preferred.
4. Mrs. Renu Kochar, learned counsel appearing for the petitioner, would submit that the Additional Collector has committed grave legal error in granting the appeal preferred by respondent No.5 as her name was not included in the select list and the petitioner was appointed. If the order appointing the petitioner on the post of Aanganbadi Karyakarta was illegal, her appointment could have been set aside and the matter could have been sent to the appointing authority for fresh consideration after including the name of respondent No.5, but in no case, respondent No.3 could have directed for appointment of respondent No.5 which is the jurisdiction of the appointing authority and which has illegally been affirmed by the revisional authority, as such, the impugned orders deserve to be set aside.
5. Mr. Ravi Kumar Bhagat, learned Deputy Govt. Advocate appearing for the State / respondents No.1 to 3, would support the impugned orders and oppose the writ petition.
6. None present for respondents No.4 and 5, though served.
7. 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.

8. In second round, the petitioner was appointed on the post of Aanganbadi Karyakarta on 9-9-2006 against which respondent No.5 preferred appeal before the appellate authority which the appellate authority has allowed by order dated 7-4-2007 and directed for appointment of respondent No.5. The grievance of respondent No.5 in appeal before the appellate authority was that the petitioner has illegally been appointed and her name has not been included. If the appellate authority was of the opinion that the appointment of the petitioner is illegal and non-inclusion of the name of respondent No.5 is illegal, then by setting aside the appointment of the petitioner on the post of Aanganbadi Karyakarta, the matter could have been remitted back to the appointing authority for fresh consideration, but in no case, the Additional Collector could have directed for appointment of respondent No.5 by undertaking the job of the appointing authority and thereby committed illegality which has been further affirmed by the revisional authority. As such, the impugned orders dated 22-1-2009 passed by the Director (Panchayat) and 7-4-2007 passed by the Additional Collector, both, are hereby quashed and the matter is remitted to the appointing authority to consider the case of the petitioner and respondent No.5 strictly in accordance with law and pass order afresh within 60 days from the date of receipt of a copy of this order.
9. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge