

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.1583 of 2012

Smt. Sachi Vaishnav, W/o Shri Sahdev Vaishnav, aged about 29 years, presently working as Anganbadi worker at Anganbadi Centre, Ravankhondra, R/o Village Ravankhondra, Gram Panchayat Litaipali, Block & Tahsil Pusaur, District Raigarh (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Panchayat and Rural Development Department, Dau Kalyan Singh Bhawan, Raipur (C.G.)
2. The Commissioner, Bilaspur Division, District Bilaspur (C.G.)
3. The Additional Collector, District Raigarh (C.G.)
4. The Chief Executive Officer, Janpad Panchayat Pusaur, District Raigarh (C.G.)
5. Smt. Draupadi Malakar, W/o Shri Babu Lal Malakar, aged about 36 years, R/o Village Ravankhondra, Gram Panchayat Litaipali, Block & Tahsil Pusaur, District Raigarh (C.G.)

---- Respondents

For Petitioner: Mr. Roop Naik, Advocate.

For Respondents No.1 to 3 / State: -

Mr. Siddharth Dubey, Deputy Government Advocate.

For Respondent No.4: -

Mr. Pawan Shrivastava, Advocate.

For Respondent No.5: -

None present though served.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/09/2021

1. The petitioner herein calls in question legality, validity and correctness of order dated 13-3-2012 passed by the State Government setting aside the order of the Commissioner, Bilaspur Division, Bilaspur, dated 19-8-2010.
2. The petitioner was appointed as Aanganbadi Karyakarta on 22-1-2007 which she joined on 25-1-2007 against which respondent No.5 filed an

appeal before the Additional Collector, Raigarh in accordance with the Chhattisgarh Panchayat (Appeal and Revision) Rules, 1995 (for short, 'the Rules of 1995') as per circular dated 2-4-2008 by which the Rules of 1995 have been made applicable. The Additional Collector set aside the appointment of the petitioner as Aanganbadi Karyakarta against which the petitioner preferred a revision before the Commissioner and the Commissioner by order dated 19-8-2010 set aside the order of the Additional Collector. Respondent No.5 being aggrieved against the order of the Commissioner, preferred a revenue case before the Secretary, Panchayat and Rural Development Department and the Secretary by its order dated 13-3-2012 set aside the order of the Commissioner restoring the order of the Additional Collector by which the petitioner's appointment on the post of Aanganbadi Karyakarta was set aside.

3. The order of the State Government has been called in question principally on the ground that no second revision lies against the order of the Commissioner which is barred by the Rules of 1995 as well as by the decision of this Court in the matter of Pritram Sahu v. State of C.G. and others¹ and the decision of the M.P. High Court in the matter of Mamta Pateria and others v. State of M.P. and others².
4. Mr. Roop Naik, learned counsel appearing for the petitioners, would submit that second revision against the order of the Commissioner was not maintainable in view of the decisions rendered by this Court as well as the M.P. High Court in Pritram Sahu (supra) and Mamta Pateria (supra), respectively.
5. Mr. Siddharth Dubey, learned State counsel, and Mr. Pawan Shrivastava, learned counsel appearing for respondent No.4, would

¹ 2005(2) C.G.L.J. 49

² 2002(4) M.P.L.J. 196

support the impugned order.

6. None present for respondent No.5, though served.
7. I have heard learned counsel for the parties and considered their submissions made herein-above and also went through the record with utmost circumspection.
8. Appeal was preferred before the Additional Collector questioning the order of appointment of the petitioner as Aanganbadi Karyakarta as per the Rules of 1995 which have been made applicable by circular dated 2-4-2008 issued by the State Government. The Additional Collector allowed the appeal on 15-3-2010 against which revision was preferred before the Commissioner, Bilaspur Division, Bilaspur and the Commissioner by order dated 19-8-2010 allowed the revision preferred by the petitioner. But there is no provision of second revision in the Rules of 1995.
9. This Court in Pritram Sahu (supra), has held that there is no provision of second revision in the Rules of 1995 and second revision is not maintainable which has also been held by the M.P. High Court in Mamta Pateria (supra).
10. Apart from this, appeal is governed by circular dated 2-4-2008 (clause 11) which only talks about appeal to be preferred in accordance with the Rules of 1995 before the Collector. Since the appellate power has been exercised, revision would be maintainable, but for preferring further revision, express provision in the Rules is required, whereas the Rules of 1995 and the circular dated 2-4-2008 are silent in this respect. In absence of that, the revisional power could not have been exercised by the State Government particularly, when the petitioner has specifically raised objection as held in paragraph 5(3) of the

impugned order dated 13-3-2012, that second revision is not maintainable, yet, the State Government did not consider that question before finding that the second revision is maintainable and allowed the revision, it could not have been done without firstly holding that second revision is maintainable. In that view of the matter, the order impugned passed by the State Government is hereby set aside.

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

Sd/-
(Sanjay K. Agrawal)
Judge

Soma