

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.1681 of 2012**

Smt.Sumitra Jaiswal, W/o-Shri Santosh Jaiswal, Aged about 32 years, R/o-Village-Sidhma, Tehsil-Rajpur, Distt.-Surguja, Chhattisgarh

----- **Petitioner**

Versus

1. State of Chhattisgarh, Through-Secretary, Department of Panchayat and Rural Development, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Commissioner, Surguja Division-Ambikapur, District-Surguja (CG)
3. Collector/Additional Collector, Surguja, Distt.Surguja (CG)
4. Sub-Divisional Officer, Ambikapur, Distt.Surguja (CG)
5. Chief Executive Officer, Janpad Panchayat-Rajpur, Distt.Surguja (CG)
6. Project Officer, Department of Child Development, Rajpur, Distt.Surguja (CG)
7. Smt.Piho, W/o-Shri Halindra Kanwar, Aged about-Not Known to the petitioner, R/o-Village-Sidhma, Tehsil & Block-Rajpur, Distt.Surguja (CG)

----- **Respondents**

For Petitioner	:	Mr.Pawan Shrivastava, Advocate
For Res.No.1 to 4/State:	:	Mr.Sakti Singh, P.L.
For Respondents No.5&6	:	None present
For Respondent No.7	:	Mr.Nishi Kant Sinha, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

9/9/2021

1. The petitioner herein calls in question legality validity and correctness of the order dated 27.2.2012 (Annexure P-1) passed by respondent No.2/Commissioner of Surguja Division, by which appeal preferred by

respondent No.7 has been allowed on the ground that respondent No.3 has passed the order in favour of the petitioner without impleading respondent No.7 as party respondent.

2. Mr. Pawan Shrivastava, learned counsel for the petitioner, would submit that learned Commissioner of Surguja Division/respondent No.2 has allowed the appeal preferred by respondent No.7 only on the ground that she has not been impleaded as party respondent in appeal preferred before the Additional Collector, Ambikapur. In that situation, learned Commissioner could have remanded the matter to the Collector/Additional Collector after impleading respondent No.7 as party respondent and could have partly allowed the appeal and could not have fully allowed the appeal setting aside the order of the Additional Collector, Ambikapur, therefore, the impugned order deserves to be set-aside.

3. On the other hand, Mr. Nishi Kant Sinha, learned counsel for respondent No.7, would support the impugned order.

4. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

5. True it is that the petitioner was appointed on the post of Aaganwadi Worker by order dated 28.8.2006, which was set-aside by the competent authority by order dated 31.5.2007, against which, the petitioner preferred revision before the Additional Collector, Ambikapur. The Additional Collector, Ambikapur by order dated 31.7.2009 allowed the revision. It is pertinent to mention here that the petitioner has only impleaded Roopnath S/o Jitua as party respondent as he was the complainant, but later on, respondent No.7 herein preferred appeal before the Commissioner of Surguja Division and that appeal has been allowed by the Commissioner by the impugned order only on the ground that respondent No.7 was not impleaded as party respondent.
6. Since the Commissioner has reached to the conclusion that respondent No.7 was necessary party, he could have remanded the matter to the Collector/Additional Collector, Ambikapur for impleading respondent No.7 as party respondent and directing the Collector/Additional Collector to hear and dispose of the appeal on merits after hearing respondent No.7 also, but could not have allowed the appeal as the petitioner has bona fide already impleaded complainant Roopnath as party in the revision/appeal

before the Additional Collector.

7. In that view of the matter, the impugned order dated 27.2.2012 (Annexure P-1) passed by the Commissioner of Surguja Division is hereby set-aside. The matter is remitted to the Collector/Additional Collector, Surguja who will hear the parties including respondent No.7 within 10 weeks from the date of receipt of a copy of this order and to pass a reasoned and speaking order after hearing the parties. It is made clear that this Court has not expressed any opinion on merits of the case.
8. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-