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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.500 of 2013

Santilata Panda

....

Appellant

-versus-

State of Orissa and others

....

Respondents

Advocates appeared in this case:

For the Appellant

:

Mr. A.K. Panda
Advocate

For the Respondents

:

Mr. Ishwar Mohanty
Addl. Standing Counsel
(For the State)

Mr. S.P. Mishra
Senior Advocate along with
Mr. Soumya Mishra, Advocate
(For Respondent No.6)

**CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

JUDGMENT

15.09.2022

Dr. S. Muralidhar, CJ.

1. The challenge in the present appeal is to an order dated 24th September 2013 passed by the learned Single Judge dismissing W.P.(C) No.25063 of 2012 filed by the Appellant. The challenge in the said writ petition was to an order passed by the Additional District Magistrate, Ganjam (ADM) on 17th October 2012 allowing Misc. Appeal No.51 of 2009 filed by Respondent No.6 Smt. Madhupriya challenging the appointment of the present

Appellant as Anganwadi Worker (AWW) at the Jagannath Patna Anganwadi Centre (AWC) situated within the Jagannath Prasad ICDS Project.

2. A notice was issued by the Child Development Project Officer (CDPO), Jagannath Prasad on 21st August 2009 inviting applications for engagement of AWW of the Jagannath Patna AWC. Several applicants including the present Appellant and Respondent No.6 applied for the post. In the selection result, Respondent No.6 was not selected since the residence certificate issued by the Tahasildar, Jagannath Prasad in her favour was cancelled by an Office Order dated 15th December, 2009. One of the factors which led to a disqualification was that she had married one Pradipta Champati, an inhabitant of Nayagarh District and his name figured in the electoral roll of Booth No.88 of the Nayagarh Assembly Constituency.

3. The selection committee therefore proceeded to appoint the present Appellant as AWW of the Jagannath Patna AWC considering that she had secured the highest marks among the remaining candidates.

4. Aggrieved by the above selection result, Respondent No.6 filed Misc. Appeal No.51 of 2009 before the Sub-Collector. This was consequent to the order passed by this Court in W.P.(C) No.5360 of 2010 filed by Respondent No.6, giving her liberty to file an appeal before the Sub-Collector, Bhanjanagar. The Sub-Collector dismissed the appeal holding that Respondent No.6 was a resident

of Nayagarh District and therefore, the resident certificate issued in her favour showing her to be a resident of Jagannath Prasad was rightly cancelled. That order dated 15th December 2009 of the Tahasildar, Jagannath Prasad cancelling her residence certificate was not challenged by her. Consequently, the appeal was dismissed.

5. The order dated 5th June 2010 passed by the Sub-Collector was challenged in this Court by Respondent No.6 by filing W.P.(C) No.26997 of 2011. In the said writ petition, this Court passed an order on 20th October 2011 noting that the fact that on 10th February 2011, the Tahasildar, Jagannath Prasad had issued a fresh residence certificate in favour of Respondent No.6. Accordingly, the order dated 5th June 2010 of the Sub-Collector was set aside by this Court and the matter was remitted for a fresh consideration.

6. On remand, the impugned order was passed by the ADM, Ganjam, who came to the conclusion, in view of the order of the High Court and a fresh certificate issued by the Tahasildar, that Respondent No.6 should be treated as a valid candidate for the post of AWW. The selection committee was therefore directed to consider afresh her candidature.

7. It is the above order dated 17th October 2012 of the ADM that was challenged by the present Appellant in W.P.(C) No.25063 of 2012 before the learned Single Judge of this Court. It must be noted here that challenging the cancellation of her residential

certificate by the Tahasildar, Jagannath Prasad, Respondent No.6 had filed W.P.(C) No.2220 of 2010 in this Court. That was disposed of by this Court with a direction to the Tahasildar to afford an opportunity of hearing to Respondent No.6 and pass appropriate orders. It was pursuant to that direction that the Tahasildar issued a fresh residence certificate on 10th February 2011 in favour of Respondent No.6.

8. The learned Single Judge taking note of all of the above facts, came to the conclusion that the order of the ADM requiring the selection committee to consider the candidature of Respondent No.6 did not suffer from any illegality.

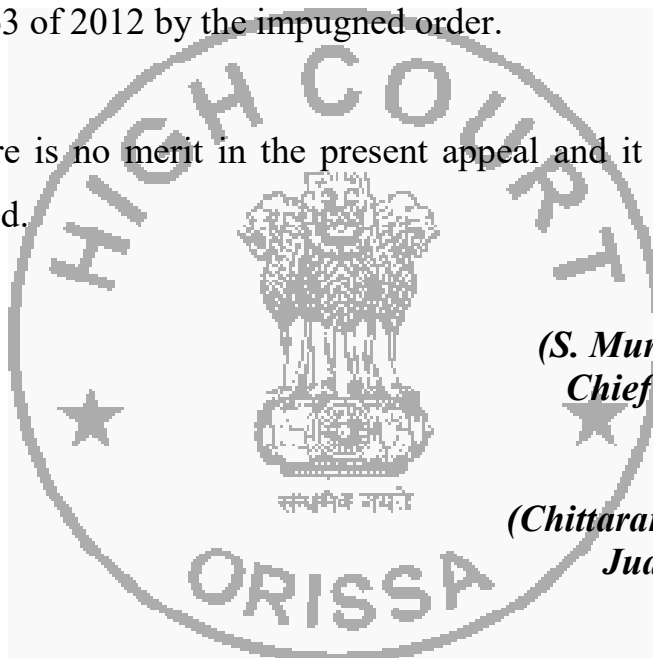
9. Mr. A.K. Panda, learned counsel appearing for the Appellant sought to contend that Respondent No.6 was not residing in the AWC area. Further, relying on the judgment in *Arun Kumar Nayak v. Union of India (2006) 8 SCC 111*, it was submitted that when there was only one candidate who was eligible to be considered, the concept of 'selection' was futile. It was submitted that merely because a daughter has become a coparcener in a coparcenary after the amendment of Section 6 of the Hindu Succession Act will not make her a permanent resident of the area.

10. There was no challenge by the present Appellant to the fresh residence certificate issued by the Tahasildar, Jagannath Prasad in favour of Respondent No.6. Therefore, in the present writ appeal, that cannot be questioned. Importantly, it was not questioned even before the learned Single Judge. What was questioned was only

the order of the ADM in Misc. Appeal No.51 of 2009. Once it is clear that a valid residence certificate has been issued in favour of Respondent No.6, then her candidature cannot be rejected and that is what has been ordered by the ADM in the appellate order.

11. For all of the aforementioned reasons, the Court is unable to find any error having been committed either by the ADM in passing the order dated 17th October 2012 or the learned Single Judge dismissing the Appellant's writ petition i.e., W.P.(C) No.25063 of 2012 by the impugned order.

12. There is no merit in the present appeal and it is accordingly dismissed.



(S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S. K. Guin/PA