

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 303 of 2015

Nirupama Kheti

....

Appellant

Mr. Sukanta Kumar Dalai, Advocate

-versus-

Padmini Meher and Others

....

Respondents

Mr. M.K. Khuntia, Addl. Govt. Advocate

Mr. B.N. Samantaray, Advocate

Mr. Sanjib Swain, Advocate

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

**ORDER
21.09.2022**

Order No.

08. 1. The present appeal is directed against an order dated 20th April, 2015 passed by the learned Single Judge disposing of writ petition i.e. W.P.(C) No.716 of 2011 filed by Respondent No.4 herein challenging the selection of the present Appellant as Anganwadi Worker (AWW) in Matikhai Anganwadi Center (AWC).
2. Aggrieved by the selection of the present Appellant the Respondent No.4, on the ground of non-calculation of marks secured by Respondent No.4 in the compartmental examination, filed an appeal before the Sub-Collector, Birmaharajpur being ICDS Appeal Case No.1 of 2008.
3. By an order dated 10th December, 2010 the Sub-Collector came to the conclusion that the procedure adopted by the Selection Board of

computing the matriculation marks of Respondent No.4 for the purposes of selection of AWW was “wrong and illogical and hence not sustainable in the eye of law.” However, the Sub-Collector held that he lacks the competence to cancel the appointment of the present Appellant and, therefore, declined to pass any further orders.

4. Aggrieved by the said order dated 10th December, 2012 Respondent No.4 filed W.P.(C) No.716 of 2011 which has come to be allowed by the impugned order by the learned Single Judge remanding the matter again to the Sub-Collector.

5. This Court has heard the submission of Mr. S.K. Dalai, learned counsel appearing for the Appellant and Mr. Khuntia, learned Additional Government Advocate for the State. Despite service of notice and a lawyer having entered earlier appearance for Respondent No.4, none appears for Respondent No.4 today when the appeal is called out.

6. The fact of the matter is that while at the time of filing of the appeal before the Sub-Collector, the guidelines governing the selection of AWW envisaged appeals being filed before the Sub-Collector, in terms of the revised guidelines issued on 10th March, 2010 the appellate authority was changed to the Additional District Magistrate (ADM). Therefore, the Sub-Collector, was not in error in observing that he lacked the authority to issue any consequential order cancelling the selection of the present Appellant. The appeal ought to have been considered only by the ADM.

7. Consequently, the impugned order of the learned Single Judge remitting the matter to the Sub-Collector is set aside. If at all,

Respondent No.4 has to be relegated to the ADM to file a fresh appeal.

8. It is accordingly directed that the appeal filed by the Respondent No.4 being ICDS Appeal No.1 of 2008 shall be listed before the ADM, Sonapur on 14th November, 2022 for hearing afresh in accordance with law in terms of the relevant guidelines. If Respondent No.4 does not appear before the ADM on that date then the appeal will stand dismissed on that ground itself. If he does appear then the ADM will after hearing him and the present Appellant as well as the State authorities dispose of the appeal within a period of four months thereafter. Till such time, the status quo as of today will continue.

9. The appeal is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S.K. Jena/Secy.