

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.1726 of 2016

Smt. Jyotsnamayee Hota

....

Petitioner

*Mr.S.K. Pradhan,
Advocate*

-Versus -

State of Odisha and others

....

Opposite Parties

*Mr. N.K. Praharaj,
Additional Government
Advocate
Mr. D. Mishra,
Advocate
(For O.P. No. 6)*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

19.10.2022

Order No.

6.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner was an applicant for the post of Anganwadi worker of Khairmal-2 Anganwadi center in the district of Sonapur. The opposite party no.6 was selected and also engaged as Anganwadi worker and has been continuing as such till date. It is the petitioner's case that the opposite party no.6 is not a resident of the service area of the concerned Anganwadi center. She filed an appeal being AWW Appeal No.3 of 2014 before the ADM Subarnapur challenging the engagement of the present opposite

party no.6 on such ground. The ADM, Subarnapur by order dated 23.12.2015 rejected the appeal, which is impugned in the present writ application. It is submitted that though the petitioner's main contention was that the opposite party no.6 is not a resident of the service area of the Anganwadi center, the ADM did not render any finding specifically on such point and decided the matter on the basis of the comparative marks secured by the candidates.

4. Mr. N.K. Praharaj, learned Additional Government Advocate has referred to the counter affidavit filed by the CDPO wherein it is stated that the opposite party no.6 is not a resident of the service area. On the other hand, Mr. Digambar Mishra, learned counsel appearing for the opposite party no.6 submits that the ADM had caused an enquiry to be made by the Tahasildar, Birmaharajpur who submitted a report categorically indicating that the opposite party no.6 is a resident of the service area.

5. A perusal of the impugned order reveals that the ADM has referred to the rival claims as regards the residence of the candidates. But there is no finding as such as regards the residence of the opposite party no.6 within the service area of the Anganwadi centre. It has simply been stated that from the case record it was ascertained that scrutiny of Anganwadi application forms have been done by the CDPO, Birmaharajpur on 17.12.2012 which was found to be correct. It goes without saying that when a specific point is raised by any of the parties in appeal, the same is required to be decided and a finding thereon rendered by the appellate authority. The same not having been done, the impugned order is rendered vulnerable and therefore, cannot be sustained in the eye of law.

6. For the foregoing reasons therefore, this Court deems it proper to quash the order dated 23.12.2015 passed by the ADM, Subarnapur in AWW Appeal No.3 of 2014 and to remit the matter to the ADM, Subarnapur to decide the appeal afresh specifically rendering a finding as regards the complaint of the petitioner regarding the residence of opposite party no. 6 beyond the service area of the Anganwadi center in question. While doing so, learned ADM shall grant opportunity of hearing to all necessary parties and consider all documents that may be filed by them.
7. The above exercise shall be completed within a period of four weeks.
8. The writ petition is disposed of accordingly.
9. Urgent certified copy of this order be granted on proper application.

(Sashikanta Mishra)
Judge

B.C. Tudu