

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 2376 of 2017

Sobharani Rout

....

Petitioner

Mr. P.S. Nayak, Advocate

-Versus -

The Collector, Jajpur & Others

....

Opposite Parties

Mr. B.P. Tripathy,
Addl. Govt. Advocate

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

28.07.2022

Order No.

26.

1. This matter is taken up through hybrid mode.
2. The petitioner was appointed as Anganwadi Worker vide order dated 10.08.2007 in Bihipur Anganwadi centre under the CDPO, Dasarathapur in the district of Jajpur. The opposite party No. 5 challenged the engagement of the petitioner before Sub-Collector, Jajpur vide Misc. Case No. 4 of 2007. The said case was disposed of by order dated 30.7.2015 by the Sub-Collector directing the CDPO, Dasarathapur to conduct an enquiry and to submit a report within one month. The basic objection against the appointment of the petitioner was with regard to her status as a destitute woman as also the genuineness of the Resident Certificate produced by her. The CDPO submitted enquiry report on 24.10.2007 stating that the certificate submitted by the petitioner was correct and that she was a destitute lady. The CDPO also clarified that even if the allegation is accepted, the petitioner having secured more marks than all the candidates, her selection is not illegal.

Feeling aggrieved, the petitioner preferred an appeal before the ADM, Jajpur bearing AWW Misc. Appeal Case No. 5 of 2016. The learned ADM, Jajpur, vide order dated 28.12.2016 without verifying the authenticity of the certificate furnished by the petitioner, directed the CDPO to remove the petitioner from the post. The petitioner has therefore approached this Court challenging the order dated 28.12.2016 in the present application seeking the following relief:

“It is therefore prayed that this Hon’ble Court may graciously be pleased to admit the writ application, call upon the Opp.Parties to show cause and upon their failure to show cause or showing insufficient cause, may further be pleased to direct the opp.Party no.4 to produce the record of the petitioner and set aside annexure-3 dtd.28.12.2016 and for the direct opp.party No.4 to continue this petitioner in his service till finalization of this writ application.

3. Counter affidavits have been filed by opposite party nos.2 & 4 and opposite party no. 5. Further, in view of the order passed by this Court on 20.12.2019 directing the State Counsel to verify the correctness/authenticity of the resident certificate issued in favor of the petitioner, an affidavit was filed by the Tahasildar, Jajpur.

4. In course of hearing, it is urged that learned ADM, Jajpur, while passing the impugned order has not taken pain to make necessary enquiry to determine the authenticity of the resident certificate furnished by the petitioner at the time of her appointment. It is further submitted that he also did not consider the report of the CDPO which clearly mentions her status as a destitute woman.

5. A reference to the impugned order, which is enclosed as Annexure-3 to the writ petition, reveals that the learned ADM has held that the selection committee has awarded five marks in favor of Respondent No.4 (the present petitioner) in absence of any authentic destitute certificate and illegally selected as an Anganwadi Worker violating the guidelines of W & CD Department. In the report of the CDPO dated 24.10.2007, enclosed as Annexure-E/4 to the counter filed by opposite party nos. 2 & 4, it has is held that the petitioner is a destitute woman and that even if no additional marks are awarded on such score, then also she having secured more marks than all the candidates, there is no dispute regarding her selection. Further, in the affidavit filed by the Tahasildar, Jajpur, it is stated under Paragraph 4 as under:

“That it is humbly submitted that it is ascertained from verification of Misc. Certificate Case Register-2007 that one OBC Certificate was issued in favour of one person namely Shradhanjali Sahoo of Kacherigaon vide Misc. Case No.3348/2007 dtd.01.06.2007. During verification of the said case Register it is also found that one Residential Certificate has been issued in fvour of Sobharani Rout, D/o.Pitambar Rout of village-Bhipur vide Misc. Certificate Case No.3344/2007 dtd.01.06.2007 which is presently coming under Dasarathpur Tahasil, Dist. Jajpur.

It is further respectfully submitted that the Misc. Certificate Case No. 2244/2007 dated 01.06.2007 relating to Residential Certificate issued in favour of Sobharani Rout, D/o- Pitambar Rout of village-Bhipur, Dist.- Jajpur is genuine an it has been wrongly issued as Misc. Case No. 3348/2007 by the than staff which may be a clerical error. xx xx xx xx

6. In view of the contents of the enquiry report at Annexure-E/4 and the statements made in the affidavit of the Tahasildar,

it is evident that these facts have apparently not been considered by learned ADM while passing the impugned order. Since the ADM is the appropriate authority to decide these factual aspects, it is proper that he should consider the same and pass necessary orders thereon afresh.

7. For the foregoing reasons, therefore, the impugned order is quashed and the matter is remitted to the learned ADM, Jajpur to decide the appeal afresh after taking into consideration the enquiry report of the CDPO, Dasarathapur as well as the affidavit filed by the Tahasildar, Jajpur before this Court. Learned ADM shall also consider the maintainability of the appeal having regard to the fact that the appellant opposite party no. 4 had not raised any such objection within the period stipulated for submitting objections at the time of selection of the petitioner. Learned ADM shall also grant opportunity of hearing not only to the appellant but also to the petitioner and shall make an effort to dispose of the appeal as early as possible, preferably within a period of four weeks from the date of receipt of a copy of this order or on production of certified copy thereof by the petitioner.

8. Till such time, no action shall be taken to fill up the post of Anganwadi Worker in Bhipur Anganwadi Centre.

9. The writ petition is disposed of accordingly.

10. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge