

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 18744 of 2022

Lalita Singh

.... **Petitioner**
Ms. A.K. Dei, Advocate

- Versus -

State of Odisha & Others.

.... **Opposite Parties**
Mr. R.N. Acharya,
Standing Counsel for SM& E

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

01.08.2022

Order No.
01.

1. This matter is taken up through hybrid mode.
2. The petitioner has approached this Court seeking the following relief:

“The petitioner, therefore prays that your Lordship would graciously be pleased to issue rule Nisi calling upon the opposite parties to show cause as to why the petitioner shall not be appointed as Anganwadi Worker as per Notification No.245 dated 07.07.2009 under Annexure-1, as the opposite party No.5 already been found to be illegal vide order dated 09.06.2022 passed by the opposite party no.2 under Annexure-9.

And the opposite parties fail to show cause or show insufficient cause, make the rule absolute.”

3. It is the petitioner’s case that she had applied for the post of Anganwadi Worker of Rambipalli Anganwadi Centre in the district of Subarnapur. However, the opposite party no.5 was selected. It is stated that the selection of opposite party no.5 was possible because of addition of 15 marks in her favour on the ground that she had experience as an ECCE Instructor. The petitioner, contending that the ECCE certificate obtained by opposite party no.5 is not genuine, filed an appeal before the learned ADM, Subarnapur, being Anganwadi Appeal No. 16 of 2013. The said appeal was disposed of vide order dated 21.12.2015 inter alia with the following

observations:

xx xx xx

On verification, it is observed that the Respondent NO.2 has worked as ECCE volunteer since April 2006 to December, 2009. As such, it is quite evident that the ECCE certificate submitted by the Respondent No.2 at the time of submission of her application for the post of Anganwadi worker is quite genuine and correct. The allegation made by the appellant regarding the authenticity of the ECCE certificate submitted by the respondent No.2 is totally baseline, vague and having no foundation at all. The selection committee and the Respondent No.1 has committed no wrong by selecting the appointing the Respondent No.2 as the Anganwadi worker of Anganwadi centre of village Rambhipali.

xx xx xx”

4. Feeling aggrieved, the petitioner approached this Court in W.P.(C) No.33425 of 2021, which was disposed of directing the Collector, Subarnapur to consider the representation submitted by the petitioner and to pass appropriate order in accordance with law. Pursuant to such order, the Collector in presence of the Sub-Collector and other District Level Officers considered the matter afresh. After hearing the parties and perusing the available documents, it was held that the court cannot confirm about genuineness of the certificate on the basis of which Smt. Bilasini Pradhan (opposite party no.5) has got 15 marks @ 5 marks per year for three years of experience as ECCE Instructor and selected for the post of Anganwadi Worker, Rambhipali. It was further held that the procedure of selection is not sacrosanct and therefore, it was directed to float new advertisement immediately after following the prescribed guidelines and till such time, Smt. Bilasini Pradhan shall continue in her post till selection of new Anganwadi Worker.

5. As it appears, in contradiction to what the ADM had held, as quoted above, there is no clear cut finding of the Collector that the document in question was forged or a fake. The order also does not clarify as to how the process of selection was not sacrosanct.

After hearing the parties and on perusal of the materials on record, this Court is of the view that as against the positive finding of the learned ADM that the certificate in question was genuine, learned Collector should have passed similar order either upholding such finding or setting aside the same on the basis of clear cut evidence. Though several enquiries appear to have been undertaken yet, no positive finding has been rendered with regard to the genuineness or otherwise of the certificate in question.

6. This Court is therefore of the considered view that the matter needs to be heard afresh by the Collector. The writ petition is therefore disposed of by quashing the order dated 09.06.2022 passed by the Collector, Subarnapur. The Collector, Subarnapur shall consider the representation of the petitioner afresh after taking into account the result of all enquiries said to have been made in the past or to be made afresh and to pass a lawful order by giving opportunity of hearing to all concerned. The above exercise shall be concluded within a period of four weeks.

7. The writ petition is disposed of accordingly.

8. Issue urgent certificate copy as per rules.

(Sashikanta Mishra)
Judge

A.K. Rana