

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.122 of 2015

Hashisa Begum

....

Appellant

M/s. G.K. Nayak, Advocate and associates

-versus-

Additional District Magistrate, Respondents
Chatrapur, Ganjam and others

Mr. Ishwar Mohanty, A.G.A. for the State

Mr. R. Acharya, Advocate for Respondent No.4

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

ORDER

21.09.2022

Order No.

04. 1. This appeal is directed against an order dated 9th February 2015 passed by the learned Single Judge allowing W.P.(C) No.16699 of 2011 filed by Respondent No.4 and setting aside the selection of the present Appellant as Anganwadi Worker (AWW) for the Telisahi Anganwadi Centre (AWC) under Ward No.3 Bhanjanagar NAC and directing the authorities to make a fresh selection in accordance with law after giving an opportunity to all the candidates to present their case.
2. While directing notice to issue in the present writ appeal on 27th March 2015, this Court directed status quo to be maintained. That interim order has continued. In effect therefore the Appellant has continued as AWW at the aforementioned AWC in the meanwhile.
3. The background facts are that an advertisement was issued for appointment of AWW at the aforementioned centre on 15th March

2010. Among the Applicants were the present Appellant and Respondent No.4. The date for scrutiny of the Applications was fixed to 30th March 2010. Admittedly, on the date of scrutiny Respondent No.4 was not present with the relevant documents. The Appellant was selected and appointed as AWW.

4. Aggrieved by the selection of the Appellant, Respondent No.4 preferred M.C. Appeal No.53 of 2010 before the Additional District Magistrate (ADM), Ganjam. The appeal was dismissed by an order dated 28th January 2011 of the ADM. The said order was then challenged before this Court by Respondent No.4 by filing W.P.(C) No.16699 of 2011.

5. Learned Single Judge has in the impugned order taken note of the decision of this Court in ***Smt. Kunimani Mallik v. Collector, Puri 2014 (II) OLR-177*** which clearly states that there can be no relaxation in the time limits in terms of the guidelines for appointment of AWWs. Nevertheless, only on the ground that Respondent No.4 was more meritorious than other candidates and that there was a circular which stated that in case of genuine difficulty, the CDPO or the Selection Committee should grant time to the candidates to produce the original certificates, the learned Single Judge has passed the impugned order setting aside the entire recruitment process.

6. This Court has heard the submissions of the learned counsel for the parties.

7. At the outset it must be noted the decision in **Smt. Kunimani Mallik** (*supra*) still holds the field. It reaffirms that the administrative guidelines issued is binding on the selection committee. Neither the selection committee nor the CDPO has been vested with any discretionary power to relax the norms. There are definite time limits for inviting applications and verification of documents. If a candidate for any reason, including that of illness, is unable to be present, there is no discretion left in the selection committee to extend the time for doing so.

8. The letter dated 25th June 2007 purportedly written by the District Social Welfare Officer, Chhatrapur to all the CDPOs that a candidate who fails to appear before the CDPO on the fixed date for verification of certificate should be given an opportunity on the next suitable date does not appear to be based on any of the guidelines issued. That document refers to a letter i.e., L. No.145 dated 2nd May, 2007 a copy of which is enclosed as Anenxure-3 to the writ appeal. The said letter merely encloses the revised guidelines for selection of Anganwadi Workers. It nowhere grants any discretion to the selection committee or the CDPO to relax the time limits for production of documents. In the circumstances, there was no error committed in not affording one more opportunity to Respondent No.4, who was admittedly not present on the relevant date, to produce the original certificates for verification.

9. Consequently, this Court finds no justification for the learned Single Judge to have set aside the entire selection and have directed authorities to conduct it afresh. The impugned order of the learned

Single Judge is accordingly set aside. The writ appeal is allowed, but in the circumstances, with no order as to costs.

10. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

M. Panda

