
(2009) 12 CHH CK 0021
In the Chhattisgarh High Court
Case No : Writ Petition No. (227) 7264 of 2009

Beena Bai (Smt.)	Vs	APPELLANT
Hardevi (Ku.) and Others		RESPONDENT

Date of Decision : 14-12-2009

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2010) 3 MPJR 122

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.

With the consent of learned counsel appearing for the parties, the petition is heard finally.

The petitioner, by this petition filed under Article 227 of the Constitution of India, impugns the order dated 15-5-2009 (Annexure-P/2) passed by the Director (Panchayat), Chhattisgarh, Raipur, in revision case No. 240/A, 89/07.08 Smt. Hardevi v. Smt. Beena Bai & Others.

On perusal of the papers, it was found that the appointment of respondent No. 1 was made by order dated 2-7-2007 without assigning any reasons, stating the qualifications and other criteria required for appointment on the post of Aanganbadi Sahayika.

The petitioner herein challenged the appointment of the respondent No. 1 herein before the Additional Collector, Bilaspur, in case No. 131/A.89 (15)/2007-08 Smt. Bena Bai v. Ku. Hardevi & Others.

The Additional Collector after having considered all the aspects of the matter by order dated 13-5-2008 (Annexure-P/1) came to the conclusion that there were 5 applications made for appointment on the post of Aanganbadi Sahayika, the

respondent No. 1 was selected without considering the fact that she was married, she had left the village to live with her husband. The respondent No. 1 had produced a certificate dated 6-7-2007 indicating that she has been deserted by her husband. Further no certificate or any other document has been produced. Thus, the appointment of the respondent No. 1 was bad on the ground that the proper procedure for selection and appointment was not followed. It was directed by the Additional Collector that all the applications may be considered in accordance with the rules for appointment on the post of Aanganbadi Sahayika.

Being aggrieved by the order dated 13-5-2008 passed by the Additional Collector, the respondent No. 1 preferred a revision before the Director (Panchayat). The Director (Panchayat) having agreed with the findings and order passed by the Additional Collector dismissed the revision directing that the appointment of the candidates may be considered in accordance with the prevalent rules.

Shri Tiwari, learned counsel appearing for the petitioner, submits that the case of the petitioner along with other candidates ought to have been considered in the light of relevant rules available at the time of selection and appointment of the respondent No. 1. Direction given by the Director (Panchayat) that the case of the candidates should be considered in accordance with the prevalent rules is bad in law.

It is a trite law that the applications for appointment is to be considered in the light of rules/law. Which is prevalent at the time of consideration, as even if the petitioner is found as selected she could not have been granted appointment with effect from the date when the respondent No. 1 was appointed. In that event the order of the Director (Panchayat) to consider the applications of concerned persons in the light of rules as prevalent today is just & proper and does not warrant any interference of this Court.

It is well-nigh established that the High Court in exercise of its extraordinary jurisdiction under Article 226 and supervisory jurisdiction under Article 227 of the Constitution of India, should refrain itself from interfering with the order passed by the Court below, except in such cases where perversity, illegality, irregularity or jurisdictional error is writ large on the face of the record, which is not in the present case.

In view of foregoing, the writ petition is devoid of merit and is accordingly dismissed at the motion stage itself.