
(2022) 11 OHC CK 0171
In the Orissa High Court
Case No : Writ Appeal No. 498 Of 2017

Beenapani Sahoo

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 21-11-2022

Acts Referred:

Citation : (2022) 11 OHC CK 0171

Hon'ble Judges : Dr. S. Muralidhar, CJ; M.S. Raman, J

Bench : Division Bench

Advocate : S. K. Sarangi, Ishwar Mohanty

Final Decision : Dismissed

Judgement

1. The present appeal is directed against an order dated 9th November, 2017 passed by the learned Single Judge in W.P.(C) Nos.15010 of 2010 and W.P.(C) No.1315 of 2011 declining to interfere with the order passed by the Additional District Magistrate (ADM), Bhubaneswar on 16th August, 2010 setting aside the appointment of the Appellant as Anganwadi Worker (AWW) in respect of Nilakantha Nagar-III Anganwadi Centre (AWC).

2. The background facts are that pursuant to an advertisement issued on 10th December 2009, both the Appellant and Respondent No.5 applied for the post of AWW at the aforementioned AWC. The Appellant was apparently selected and given the appointment. Respondent No.5 first filed a writ petition in this Court in which an

order was passed on 5th May, 2010 directing her to file an appeal. The appeal filed by Respondent No.5 was allowed by ADM, Bhubaneswar by the aforementioned order essentially on the ground that the Appellant was not a permanent resident of Nilakantha Nagar-III and, therefore, was ineligible to be appointed as AWW at the said AWC.

3. This order was challenged by the Appellant before the learned Single Judge in

W.P.(C) No.15010 of 2010. As is evident from the impugned order dated 9th November 2017, during the pendency of the writ petition, the learned Single Judge by an order dated 27th July, 2016 called for a report from the Collector. The Collector submitted a detailed report pointing out that Nilakantha Nagar-III was earmarked as a separate AWC and that the Appellant was not residing in the area of Nilakantha Nagar-III AWC. In view of the said report, the learned Single Judge declined to interfere with the order of ADM.

4. Learned counsel for the Appellant submits that the advertisement issued for the post did not specifically mention the requirement that the candidate had to be the permanent resident of Nilakantha Nagar-III AWC. He submits that since no objection had been filed within the stipulated period to the candidature of the Appellant, her selection ought not to have been interfered with.

5. The guidelines for appointment of AWW describe the requirement of the candidate having to be a permanent resident of the area which is served by AWC in question. The fact that the advertisement may not have mentioned, it will not permit the authorities to dispense with such requirement. This is known to all applicants who applied for the post of AWW.

6. Factually, it has been found by the learned Single Judge, on the basis of the report of the Collector, that the Appellant is not a permanent resident of Nilakantha Nagar-III area. The Appellant has not been able to show that the said report was erroneous.

7. Consequently, the Court is unable to find any error having been committed by the learned Single Judge in declining to interfere with the impugned order of ADM.

8. It may be noted here that by the same impugned order, learned Single Judge disposed of the connected writ petition i.e. W.P.(C) No.1315 of 2011 directing the authorities to conduct the selection process afresh. It must be noticed here that while admitting the present writ appeal on 5th February 2019, this Court had stayed the operation of the said impugned order. With this Court now concluding that there are no grounds to interfere with the impugned order, the aforementioned interim order is vacated.

9. The writ appeal is dismissed, but in the circumstances, with no order as to costs.

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