
(2008) 04 CHH CK 0004
In the Chhattisgarh High Court

Kanjeera Parveen

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 09-04-2008

Acts Referred:

Citation : (2008) 04 CHH CK 0004

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Satish K. Agnihotri, J.—By this petition, the petitioner impugns the validity of the order dated 20-2-2006 (Annexure P/18) passed by the Collector, Surguja, in Case No. 13/A-89/2004- 2005 (Nasrin Bano v. Gram Panchayat, Jigdi and Ors.), whereby the application of the petitioner for intervention / impleadment was rejected holding that since the case does not involve the property or land dispute, therefore, it was not necessary to implead the petitioner as intervener

2. The facts, in nutshell, are that the petitioner applied for appointment on the post of Urdu Contract Teacher, Class III (woman), in Janpad Panchayat Rajpur, Gram Panchayat Jigdi, Rajpur, pursuant to an advertisement dated 3-10-2003 and participated in the interview held on 17-2-2004 (Annexure P-1). The selection process was conducted in accordance with the provisions of Chhattisgarh Panchayat Samvida Shala Shikshak (Appointment and Conditions of Service) Rules, 2001. According to the petitioner, despite the fact that the respondent No. 8 did not participate in the selection process including interview, the respondent No. 8 was appointed on 5-8-2004 as Urdu Contract Teacher (Annexure P/9/). Being aggrieved, the petitioner made a complaint before the Chief Executive Officer, Janpad Panchayat, Rajpur. The Chief Executive Officer, Janpad Panchayat, Rajpur, cancelled the appointment of the respondent No. 8 on 8-9-2004 (Annexure P/10).

3. Feeling aggrieved, the respondent No. 8 preferred an appeal before the Sub

Divisional Officer, Ambikapur. The Sub Divisional Officer, Ambikapur, dismissed the appeal on 26-5-2005 (Annexure P/12) holding that the appointment of the respondent No. 8 was not in accordance with law. Thus, the order dated 8-9-2004 (Annexure P/10) passed by the Chief Executive Officer, Janpad Panchayat, Rajpur, was confirmed. Further, being aggrieved, the respondent No. 8 preferred an appeal before the Collector, Ambikapur on 14-7- 2005 (Annexure P/13). The respondent No. 8 did not implead the petitioner as necessary party before the Sub Divisional officer, Ambikapur, as well as before the Collector, Ambikapur, in appeal. The petitioner accordingly filed an application on 18-7-2005 (Annexure P/16) before the Collector, Ambikapur, for permission to intervene in the matter being necessary party to the dispute. The Collector, Ambikapur, dismissed the application of the petitioner on unsustainable ground that the dispute does not pertain to the property or land, therefore, the petitioner cannot be allowed to intervene in the matter.

4. Shri Vaibhav Goverdhan, learned Counsel appearing for the petitioner submits that the impugned order was passed in limine, without considering the fact that by the order passed by the Collector, Ambikapur, the petitioner would be substantially affected as she alone took participation in the selection process and on cancellation of the appointment of the respondent No. 8, the petitioner alone is to be appointed. The petitioner is a necessary party to the dispute. The Collector, Ambikapur, ought to have considered the application for intervention and impleadment as necessary party. Rejection of the application on the ground that in case of property dispute alone, the petitioner could be impleaded or allowed to intervene in the matter, was erroneous. In all the matters where the party is substantially affected by a decision of the Tribunal/Court, the party should be impleaded as necessary party.

5. Learned Counsel for the State submits that the reasons for not permitting the petitioner to intervene in the matter as being necessary party, is not sustainable in law.

6. I have heard learned Counsel for the parties, perused the pleadings and documents appended thereto. It is a clear case wherein the petitioner was a candidate in the selection process and if it is found that the petitioner alone has participated in the selection process, the petitioner may be entitled to benefit pursuant to the decision of the Collector, Ambikapur.

7. In the matter of Udit Narain Singh Malpaharia v. Additional Member Board of Revenue, Bihar and Anr.1, the Supreme Court observed as under:

(7) To answer the question raised it would be convenient at the outset to ascertain who are necessary or proper parties in a proceeding. The law on the subject is well settled ; it is enough if we state the principle. A necessary party is one without whom no order can be made effectively; a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding.

(12) To summarise in a writ of certiorari not only the tribunal or authority whose order is sought to be quashed but also parties in whose favour the said order is issued are necessary parties. But it is in the discretion of the court to add or implead proper parties for completely settling all the questions that may be involved in the controversy either suo moto or on the application of a party to the writ or an application filed at the instance of such proper party.

8. In the matter of K.H. Siraj v. High Court of Kerala and Ors.2, the Supreme Court in para 75 observed as under:

It was, therefore, imperative that all the candidates in the select list should have been impleaded as parties to be writ petitions as otherwise they will be affected without being heard.

9. In the matter of K.M. Rashmi Mishra v. M.P. Public Service Commission and Ors.3, the Supreme Court observed as under.

15. In the aforementioned situation, all the seventeen selected candidates were necessary parties in the writ petition. The number of selected candidates was not large. There was no difficulty for the appellant to implead them as parties in the said proceedings. The result of the writ petition could have affected the appointees. They were, thus, necessary and/or in any event proper parties.

10. Without expressing any opinion on the merit of the case, it is held that the petitioner is a necessary party, the petitioner shall be impleaded in appeal pending before the Collector, Ambikapur. Any order passed without impleading the petitioner as party respondent, may affect the petitioner substantially.

11. Accordingly, the impugned order dated 20-2-2006 (Annexure P/18) is quashed. The Collector, Ambikapur, is directed to proceed with the adjudication of the dispute after impleading the petitioner as a party respondent.

12. The petition is accordingly allowed. No order as to costs.