

(2025) 03 RAJ CK 0686

In the Rajasthan High Court, Jodhpur Bench

Case No : Civil Writ Petition No. 13887 Of 2018

Santosh Devi

APPELLANT

Vs

State Of Rajasthan

RESPONDENT

Date of Decision : 19-03-2025

Acts Referred:

Rajasthan Service Rules, 1951 — Rule 103C(2)(xi), 91(3), 59

Citation : (2025) 03 RAJ CK 0686

Hon'ble Judges : Arun Monga, J

Bench : Single Bench

Advocate : Suresh Kumar Bishnoi

Final Decision : Disposed of

Judgement

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Arun Monga, J

1. Petitioner herein is before this Court seeking appointment on the post of Asha Sahyogini at Anganwadi Centre Mandela, Panchayat Samiti Biliyawas, District Rajasmand, pursuant to advertisement dated 03.01.2018 (Annex.2).

2. Briefly speaking, relevant facts as pleaded in the petition are that vide communication dated 02.01.2018, the State Government issued guidelines to appoint persons for various posts at Anganwadi Centres through Gram Panchayats. Pursuant to it, an advertisement dated 03.01.2018 was issued inviting applications for various posts, including the position of Asha Sahyogini at Gram Panchayat Biliawas. The advertisement specified that a Gram Sabha meeting would be held for the selection of candidates.

2.1. Accordingly, a Gram Sabha meeting was held on 15.02.2018, where, under item No.33, a resolution was passed to select the petitioner-Smt. Santosh Devi as Asha Sahyogini at Anganwadi Centre Mandela. Following this, the Sarpanch of Gram Panchayat Biliawas sent communication to the respondent CDPO,

confirming the petitioner's selection for the post.

2.2. Despite the petitioner's selection by the Gram Panchayat, a fresh advertisement was issued on 04.07.2018, re-advertising the same post. No cancellation of the previous advertisement (dated 03.01.2018) was made, and no order was issued to inform the Gram Panchayat about the new advertisement.

2.3. Gram Panchayat Biliawas also clarified that the petitioner was selected as Asha Sahyogini at Anganwadi Centre Mandela in accordance with the earlier advertisement and the Gram Sabha's resolution, and that the CDPO had been notified. It also pointed out that the fresh selection process was initiated without canceling the earlier one or informing the Gram Panchayat about the new advertisement. Hence, this petition.

3. In the aforesaid backdrop, I have heard the rival contentions and have perused the case file along with record appended therewith.

4. First and foremost, reference may be had to an interim order dated 04.10.2018 passed by a Coordinate Bench of this Court, the then seized of the matter, which reads as under:-

"It is submitted by learned counsel for the petitioner that pursuant to the advertisement dated 3.1.2018 (Annex.2), the petitioner was selected, however, without giving appointment to the petitioner / cancellation her selection, post again has been advertised vide advertisement dated 4.7.2018 (Annex.5).

In view of the submissions made, issue notice. Issue notice of the stay application also, returnable within four weeks.

Notices when issued be given 'dasti' to learned counsel for the petitioner.

In the meanwhile and till further orders, further proceedings pursuant to the advertisement dated 4.7.2018 (Annex.5) for the post of Asharshi Sayogini for Gram Panchayat Bilyawas, Madela shall remain stayed."

5. Apropos, on the one hand petitioner is before this Court being aggrieved that despite having been successful in the selection process, she has not been appointed, on the other hand, general public is suffering as in the village concerned no Asha Sahyogini is rendering services since the subsequent advertisement 04.07.2018 (Annex.5) was also stayed by this Court.

6. As regards the contents of the petition, despite ample opportunities, no reply was filed and this Court was constrained to pass following order on 15.05.2024:-

"Despite this Court vide an earlier order dated 29.01.2024 having been given the last opportunity with the caution that in case reply is not file, cost of Rs.25,000/- shall be imposed, needful has not been done.

In view thereof, right of respondents to file their reply is foreclosed. To come up for arguments on 17.10.2024.

Interim order to continue till then.”

7. On resumed hearing, arguments were heard on the basis of record appended with the petition and it transpires that only opposition by the respondents is qua the eligibility of the petitioner on the ostensible ground of her not being resident of same village where she has to work as Asha Sahyogini.

8. Trite it may sound, but the eligibility is to be reckoned at the very threshold of the selection process and not after a candidate is declared successful. To that extent, clearly the shoe is on the other foot in the present case. The petitioner applied for the post in question in terms of the advertisement and did not conceal anything or mislead either overtly or covertly, so as not to be held ineligible during scrutiny of the application.

9. After going through the application, she was allowed to participate in the selection process and even it is not a case of the respondents that she is not meritorious as is borne out from the letters dated 15.02.2018 (Annex.3), which is a resolution passed in favour of petitioner by Gram Sabha in their meeting, Annex.4 (undated), which is a communication sent by Sarpanch Biliawas to respondent – Child Development Project Officer indicating that petitioner has been selected, and communication dated 23.07.2018 (Annex.6), issued by Gram Panchayat Biliawas indicating that petitioner is selected. The aforesaid letters being the official record are not disputed.

10. As an upshot, the petition is allowed. The respondents are directed to offer appointment to the petitioner, within a period of 30 days from the date petitioner approaches the competent authority with a web-print of the instant order with all consequential benefits. However, petitioner shall be entitled to monetary benefits from the date of her joining the service.

11. Pending application(s), if any, stand disposed of.