
(2017) 01 OHC CK 0006
In the Orissa High Court
Case No : 20100 of 2010

Priyatama Moharana

APPELLANT

Vs

State of Odisha and others

RESPONDENT

Date of Decision : 16-01-2017

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs

Citation : (2017) 01 OHC CK 0006

Hon'ble Judges : A.K.Rath

Bench : SINGLE BENCH

Advocate : Alok Kumar Panda, Pravash Chanda Panda

Final Decision : Allowed

Judgement

1. By this application under Article 226 of the Constitution of India, the petitioner has prayed, inter alia, to quash the notifications dated 12.11.2010 and 22.5.2012 issued by the Child Development Project Officer, Berhampur, opposite party no.4. An ancillary prayer has been made for a direction to the opposite parties to make the selection of Anganwadi Worker in respect of Triveni Nagar, Additional Anganwadi Centre pursuant to the notification dated 25.6.2009.

2. The case of the petitioner is that on 25.6.2009, the Child Development Project Officer, Berhampur, opposite party no.4, issued a notification for appointment of Anganwadi Worker in various Anganwadi Centres of Berhampur Town including Triveni Nagar Anganwadi Centre. The petitioner being otherwise eligible applied for the same along with all testimonials. A valid candidate list was published. Thereafter, objections were invited. Five candidates had applied for the post out of which two had submitted forged residential certificate. The petitioner filed an objection to the same. Since no steps were taken for selection of Anganwadi Worker, she made an application under RTI Act and also submitted a representation. While the matter stood thus, opposite party no.4 cancelled the notification dated 25.6.2009 and issued fresh notifications on 12.11.2010 and

22.5.2012 inviting applications.

3. Pursuant to issuance of notice, a counter affidavit has been filed by the opposite party no.5. It is stated that since the allegations were received during initial process of selection with regard to residential status of the candidates, the Collector by letter dated 7.10.2009 directed to constitute four teams to verify the residential status of 57 candidates and submit the report. Pursuant to the aforesaid order, the Sub-Collector, Berhampur vide office order no.11541 dated 26.11.2009 constituted four teams. The members of the committee visited different areas to ascertain the residential status of the candidates. During course of enquiry, it was revealed that two candidates, namely, Amita Majhi and Mamita Kumari Patra were not the resident of Triveni Nagar. On the basis of the enquiry report, a comparative statement was prepared among three candidates. From the comparative statement, it appears that the petitioner has secured highest marks i.e. 54.2 and stood first. It is further stated that since most of the residential certificates submitted by the candidates found incorrect in course of enquiry and in order to avoid any further unpleasant situation, the advertisement was cancelled.

4. Heard Mr.Alok Kumar Panda, learned counsel for the petitioner and Mr. Pravash Chandra Panda, learned Addl. Government Advocate for the State.

5. Mr. Panda, learned counsel for the petitioner, submits that five candidates had applied for the post of Anganwadi Worker in respect of Triveni Nagar Anganwadi Centre. Two candidates had submitted forged residential certificates. A comparative statement was made in respect of three other candidates. The petitioner stood first. There is no allegation against the petitioner. Thus the issuance of fresh advertisement is bad in law and a direction may be issued to the opposite party no.5 to appoint the petitioner.

6. Per contra, Mr. Panda, learned Addl. Government Advocate for the State, submits that the advertisement was issued by opposite party no.5 to fill up the post of Anganwadi Worker in respect of various Anganwadi Centre at Berhampur town. Some of the candidates had submitted the forged residential certificates. The Collector had constituted four teams to scrutinize the documents and submit the report. In order to avoid future complicity, the advertisement was cancelled.

7. Pursuant to the advertisement dated 25.6.2009, five candidates applied for the Anganwadi Worker. The applications of two candidates had not been considered since they had submitted forged residential certificates. A comparative statement of three candidates was made by the opposite party no.5. From amongst three candidates, the petitioner has secured highest marks and stood first. Thus there is no rhyme or reason to cancel the advertisement and issue a fresh advertisement. In view of the same, the advertisements dated 12.11.2010 and 22.5.2012 with regard to Triveni Nagar, Additional Anganwadi Centre are quashed. The opposite party no.5 shall take steps to appoint the petitioner as Anganwadi Worker in respect of Triveni Nagar, Additional Anganwadi

Centre. The petition is allowed.