
(2014) 06 CHH CK 0011
In the Chhattisgarh High Court
Case No : W.P. (227) No. 224 of 2010

Rampati

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision : 26-06-2014

Acts Referred:

Chhattisgarh Panchayat Raj Adhiniyam, 1993 — Section 69(1)

Citation : (2014) 4 CGLJ 291 : (2014) 5 MPHT 24

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Single Bench

Advocate : P.R. Patankar, Advocate for the Appellant; Sunita Jain, Panel Lawyer and A.K. Shukla, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J.

Heard learned counsel for the parties.

1. The petitioner is challenging the order passed by the Director Panchayat, Chhattisgarh vide Annexure P-5, whereby the said authority has allowed the appeal preferred by respondent No. 4 herein and has cancelled the order of appointment of the petitioner on the post of Anganwadi worker of village Biramtal, which was made after cancelling appointment of respondent No. 4 as Anganwadi worker of the said village.

2. The brief indisputable facts are; in the process of appointment of Anganwadi worker of the said village, the respondent No. 4 was appointed by order dated 16-08-2006, as she was the most suitable and eligible candidate under the norms laid down by the Government for appointment of Anganwadi worker by its circular dated 27-05-1997.

3. The petitioner, being one of the contenders for the post, made a complaint before the Collector, Sarguja and the said officer, after making enquiry, set aside

the appointment of respondent No. 4, at the same time, appointed the petitioner as Anganwadi worker of the said village vide order dated 15.06.2007 (Annexure P-2). This order has not elaborated as to what was the illegality in the petitioner's appointment. Challenging the order passed by the Collector, Sarguja, vide Annexure P-2, respondent No. 4 preferred an appeal before the Director Panchayat and the said appeal has been allowed by the impugned order.

4. Shri Patankar, learned counsel for the petitioner would argue that respondent No. 4 being wife of the Panchayat Secretary of the Gram Panchayat is ineligible or disqualified for being considered for appointment as Anganwadi worker, therefore, the Collector had rightly cancelled the appointment and the impugned order deserves to be set aside. He has referred to the judgment rendered by this Court in Bholaram Verma Vs. State of Chhattisgarh and Others, .

5. Shri Shukla, learned counsel for respondent No. 4 and Ms. Sunita Jain, learned Panel Lawyer for the State have opposed the prayer made in the writ petition. Shri Shukla would argue that respondent No. 4 does not incur any disqualification under the extant State Government's circular, therefore, order passed by the Director Panchayat does not call for any interference.

6. Appointment on the post of Anganwadi worker is governed by the circular issued by the State Government on 27-05-1997 (Annexure P-7). Clause (1) of the circular prescribes eligibility criteria for appointment to the post of anganwadi workers and Anganwadi assistant. Sub-clause (A) (1) of the circular deals with the eligibility qualification with respect to the Anganwadi workers and paragraph 3 thereof makes the following provisions which are reproduced in hindi:-

7. Referring to this clause, it has been argued that since the husband of respondent No. 4 is a Panchayat Secretary, her appointment is covered within the mischief of this clause and as such, the appointment was illegal.

8. I have carefully read the above quoted clause, which means that the person, whose relative is a government servant or an elected or nominated member of Panchayat Raj Institution/Urban Bodies, shall not be eligible for being appointed as Anganwadi worker. It has not been disputed before this Court that Panchayat Secretary is not a Government servant. Likewise, Panchayat Secretary does not hold the post as elected or nominated member of Panchayat Raj Institutions. Panchayat Secretary is notified u/s 69(1) of the Panchayat Raj Adhiniyam, 1993 and as such, he is not an elected or nominated member of Panchayat.

9. The bar created in para No. 3 of clause (A) (1) of the circular is with an object to restrain the elected or nominated office bearer of Panchayats/Urban Bodies or a Government servant to misuse their position for getting their kith & kin appointed as Anganwadi worker. However, when the relative of the appointee is not covered within the mischief of this clause as discussed above and there being no other disqualification attached with respondent No. 4, her appointment was absolutely justified and the Director, Panchayat has not committed any jurisdictional error of law while allowing the appeal.

10. In the judgment relied by the learned counsel for the petitioner, the issue was whether a person, whose relative was functioning as Sarpanch or Upsarpanch of the concerned Gram Panchayat can be appointed as Panchayat Secretary, therefore, the said judgment being not related to and having not addressed with the interpretation of the circular dated 27-05-1997 is of no assistance to the petitioner.

11. For the foregoing, this Court is of the considered opinion that the order passed by the Director, Panchayat does not suffer from any infirmity and as such, it does not call for any interference. The writ petition is accordingly dismissed.

12. Interim order passed earlier stands vacated.