
(2008) 02 RAJ CK 0111
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1617 of 2007

Sakoo (Smt.)

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 18-02-2008

Acts Referred:

Citation : (2008) 2 WLN 580

Hon'ble Judges : Munishwar Nath Bhandari, J

Bench : Single Bench

Judgement

Munishwar Nat H Bhandari, J.—By this writ petition the petitioner has challenged the selection of respondent No. 6 on the post of ?Anganbari Karyakarta? by Gram Panchayat, Khardia of Panchayat Samiti, Sindhari.

2. The challenge has been made mainly on the ground that as per Annexure/7 dt. 15.09.2003 issued by the Women and Child Development Department, the selection was required to be made as per para No. 6 of the circular where it is provided that if a candidate is having qualification then the preference is required to be given.

3. Learned Counsel for the petitioner further submits that though the petitioner is having qualification of graduation she is being ignored whereas the non petitioner No. 6 having only qualification of Xth has been given appointment in violation of the circular dt. 15.09.2003. The further grievance raised in the writ petition is that as per the circular in reference, the selection has to be made by the Gram Sabha whereas in the present matter such selection has been made by the Gram Panchayat in violation of the instructions of the Government. The selection has been made by incompetent body and that too without due publicity for calling for the application for consideration of the candidature of the eligible candidates.

4. Learned Counsel appearing for the respondent No. 4 and 5 submits that necessary consideration was made by the Gram Panchayat pursuant to the order Annexure/4 dt. 12.02.2007 in as much as Child Development Project Officer

issued direction for such consideration at the earliest. It has further been submitted that the petitioner has not applied for the post of ?Anganbari Karyakarta, hence question of consideration of her candidature does not arise therefore, respondent No. 6 was appointed pursuant to the only application received by the Gram Panchayat. Thus, learned Counsel for the respondent No. 4 to 5 supported the action of Gram Panchayat, though admitted that Gram Panchayat failed to give publicity for calling for application and competence as per circular dt. 15.09.2003.

5. Learned Counsel appearing for the non petitioner No. 6 submitted that she being the only eligible candidate was rightly been selected by the Gram Panchayat. Thus, the order of Gram Panchayat already issued in her favour should not be set aside.

6. I have considered the rival submissions and scanned the matter carefully. Perusal of Annexure/7 dt. 15.09.2003 shows that the circular was issued by the Government in supersession to order dt. 22.02.2000 and as per the said circular, necessary considerations for appointment on the post of Anganbari Karyakarta was to be made by Gram Sabha. However, in the present matter instead of considering the candidature by Gram Sabha, the Gram Panchayat has considered the candidature of the candidate without authority and that too without due publicity for calling the applications for consideration.

7. Learned Counsels for the respondents were specifically asked about the mode of publicity for calling application for appointment on the post of Anganbari Karyakarta. However, nothing could be shown from the record to the effect that due publicity was given to call for the applications from the eligible candidates. In view of the above, it cannot be said that the petitioner was at a fault in non submissions of the applications because if the things have been done without due publicity for calling for application, obviously the petitioner cannot be faulted. In view of the above, the only application received from respondent No. 6 was accepted by the Gram Panchayat and appointment was made despite of the fact that the Gram Panchayat is not competent to undertake such a decision and further if such an exercise is undertaken then due publicity was to be given to call for the application. The petitioner is otherwise better qualified than the respondent No. 6 thus, even as per circular dt. 15.09.2003, she was having a better right of appointment.

8. However, the petitioner was prevented to submit application as not only Gram Panchayat failed to give due publicity for appointment of ?Anganbari Karyakarta? but otherwise the Gram Panchayat was not competent to undertake such an exercise.

9. Resultantly, the appointment of respondent No. 6 cannot be allowed to stand being the order passed by the authority in violation of the circular issued by the Government. Hence the order of appointment of respondent No. 6 is set aside.

10. The writ petition is allowed with a direction to the respondents to conduct

selection process on the post of "Anganbari Karyakarta" after giving due publicity and such selection should be made by the Gram Sabha as per the circular dt. 15.09.2003.