
(2019) 11 JH CK 0094

In the Jharkhand High Court

Case No : Letter Patent Appeal No. 489 Of 2018

Sapna Kumari

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 05-11-2019

Acts Referred:

Citation : (2019) 11 JH CK 0094

Hon'ble Judges : Aparesh Kumar Singh, J; Kailash Prasad Deo, J

Bench : Division Bench

Advocate : Nagmani Tiwari, Chandra Prabha, Vishal Kumar Rai

Final Decision : Dismissed

Judgement

Heard learned counsel for the appellant and State on the prayer for condonation of delay of 16 days in preferring the instant Memo of Appeal through

I.A. No. 8162 of 2018. We have also entertained the argument on merits of the challenge made by the appellant to the impugned judgment dated 10th

July, 2018 rendered in W.P.(S) No. 1196 of 2018 by learned Single Judge.

The factual exposition as delineated in the writ petition and succinctly recorded in the impugned judgment shows that writ petitioner did not enclose the

residential certificate and caste certificate along with her application for consideration for appointment as Aanganbari Sewika, for Koymara Aganwari

Center under Giridih District by the cut-off date for making such application. Respondent no. 5 was found eligible by the Aam Sabha and was

provisionally selected vide Memo no. 01 dated 12th May, 2017. The District Welfare Officer on the representation made by the petitioner convened a

fresh Aam Sabha on the basis of an enquiry report dated 22nd August, 2017 (Annexure-9) which is under the pen and signature of the District

Welfare Officer, Giridih. Deputy Commissioner, Giridih on representation of respondent no. 5 enquired the matter and on being satisfied that

respondent no. 5 was rightly appointed, directed for her continuance on the said post. Being aggrieved, petitioner approached the Writ Court. Learned

Single Judge upon consideration of the factual matrix of the case opined as follows:

6. The arguments advanced by AC to learned SC-IV finds strength from the enquiry report where finding has been given regarding

appointment of respondent no. 5 and it has been said that respondent no. 5 was rightly appointed and petitioner was not having requisite

qualification as she did not possess residential and caste certificate at the time of selection process. It has been further argued by learned

counsel that the Deputy Commissioner was fully empowered for issuance of directions to the respondents to appoint respondent no. 5 to the

post of Aanganbari Sewika.

7. Be that as it may, having gone through rival submission of the parties this Court is of the considered opinion that there is no illegality or

infirmary in the order of appointment of respondent no. 5. No interference is warranted in the instant writ petition.

8. As a cumulative effect of the aforesaid facts and circumstances, this writ petition stands dismissed.

Learned counsel for the appellant in order to assail the findings, has urged that once the Aam Sabha was cancelled and in reconvened Aam Sabha,

petitioner was able to produce residential certificate and caste certificate, rejection of her candidature despite having higher qualification was not

proper.

Learned counsel for the State submits that the eligibility of the candidate was to be reckoned on the cut-off date for making application on which date

writ petitioner had failed to produce the mandatory residential certificate and caste certificate, though she had enclosed certain receipts to show that it

was applied for. Though the matter was enquired by the District Welfare Officer on the representation of the writ petitioner and a fresh Aam Sabha

was convened, but even if the petitioner was able to produce her residential certificate and caste certificate on the date when fresh Aam Sabha was

reconvened, the eligibility on the date for making application on the part of the

petitioner was wanting. Deputy Commissioner having enquired into the matter was satisfied that respondent no. 5 was rightly appointed and directed for her continuance on the said post. Learned Single Judge has, therefore, rightly refused to interfere in the matter.

On the point of condonation of delay, learned counsel for the appellant has submitted that delay is minor and appeal has been filed only after 16 days after due deliberation with her lawyer on the factual and legal merits of her case. Therefore, it being properly explained, delay may be condoned.

Learned counsel for the State has not made serious objection on the point of delay.

We have considered the submission of learned counsel for the appellant and State and taken note of the facts and circumstances culled out from the pleadings on record as noted above as also the findings of learned Single Judge. The main thrust of the appellant's argument is that after

cancellation of the first Aam Sabha the writ petitioner having produced her residential certificate and caste certificate in the reconvened Aam Sabha

was fully eligible. Therefore, appointment of respondent no. 5 even thereafter though having lesser qualification was not proper. Appellant has

however missed the crux of the matter which is the threshold eligibility on the cut-off date for making application which she was lacking for want of

residential certificate and caste certificate, whereas the respondent no. 5 was found to be eligible on all counts though perhaps having lesser

qualification than the writ petitioner. Aam Sabha was not reconvened pursuant to any fresh advertisement where the writ petitioner could fulfil the

eligible requirement. Consideration in the reconvened Aam Sabha related back to the date for making application where eligibility of the writ petitioner

was found lacking on two counts. Deputy Commissioner having enquired into the matter found that appointment of the respondent no. 5 was valid.

Learned Single Judge therefore did not find any merit in the challenge and accordingly dismissed the writ petition. We do not find any error in the

impugned judgment. However, on being satisfied with the grounds urged in the application for condonation of delay, delay is condoned. I. A. no. 8162

of 2018 stands disposed of. For the reasons recorded hereinabove, appeal is accordingly dismissed.