
(2014) 05 OHC CK 0005
In the Orissa High Court
Case No : Writ Appeal No. 533 of 2013

Smt. Sarojini Sahoo

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 14-05-2014

Acts Referred:

Citation : (2014) 118 CLT 106 : (2014) 143 FLR 114 : (2014) 2 ILR 226 :
(2014) LabIC 2545 : (2014) 2 OLR 65

Hon'ble Judges : A.K. Goel, C.J.; Akshaya Kumar Rath, J

Bench : Division Bench

Final Decision : Allowed

Judgement

A.K. Rath, J.—This writ appeal has been filed under Clause-10 of the Letters Patent against the judgment and order dated 18.12.2013 passed by the learned Single Judge in W.P. (C) No. 9330 of 2010, whereby and whereunder, the learned Single Judge dismissed the writ petition and confirmed the order of the Sub-Collector, Sadar, Cuttack rejecting the candidature of the appellant to the post of Anganwadi Worker as she does not belong to Adalia Anganwadi Centre area.

2. Shorn of unnecessary details, the short facts of the case of the appellant is that pursuant to the advertisement issued by the C.D.P.O., Cuttack for engagement of Anganwadi Worker in Adalia Anganwadi Centre, she submitted an application. She having been selected, engagement order was issued to her on 29.11.2008. Thereafter, she joined in the post. Challenging her selection, respondent no. 4 preferred appeal before the Sub-Collector, Sadar, Cuttack, which was registered as Anganwadi Misc. Appeal No. 14 of 2009. By order dated 27.4.2010, the Sub-Collector, Sadar, Cuttack allowed the appeal by setting aside the engagement order issued in favour of the appellant on the ground that she is not a permanent resident of service area and directed the C.D.P.O. to finalize the selection of Anganwadi Worker from amongst the eligible candidates.

3. Challenging, inter alia, the order dated 27.4.2010 passed by the Sub-Collector,

Sadar, Cuttack in Anganwadi Misc. Appeal No. 14 of 2009, she filed writ petition.

4. In course of hearing of the writ petition, the C.D.P.O., respondent no. 3 filed counter affidavit contending, inter alia, that as per the guidelines issued by the Government, the candidates for selection of Anganwadi Worker should belong to the service area of the Anganwadi Centre. The appellant submitted a resident certificate that she is a resident of village Adalia. As she secured highest mark, she was selected. But then, on the basis of the complaint lodged by respondent no. 4, the matter was enquired into by the Tahasildar, Sadar, Cuttack, who submitted a report stating that the appellant was residing in the house of one Bhagyadhar Prusty on rent as a tenant and presently she is residing in the house of one Basanti Barik of village Adalia on rent. The contesting respondent no. 4 also filed a counter affidavit to the same effect. After hearing the matter at length, in an elaborate judgment, the learned Single Judge came to hold that the appellant being the permanent resident of village Kulasarichuan under Kalapada R.I. Circle, her application could not have been considered for engagement as Anganwadi Worker in respect of Adalia Anganwadi Centre as she does not belong to the said area. Having held so, learned Single Judge dismissed the writ petition.

5. We have heard Shri K.K. Swain, learned counsel for the appellant, Shri R.K. Mohapatra, learned Government Advocate for respondents 1 to 3 and Mr. A.K. Mohapatra-1, learned counsel for respondent no. 4.

6. The centripetal point, which revolves round the case, is the meaning of word resident appearing in the Revised Guidelines for Selection of Anganwadi Workers vide Annexure-3. Clause-1 of the said Revised Guidelines provide that applications for selection of volunteers to work as Anganwadi Workers will be invited for each village/Anganwadi Centre area from women residing in the said village/Anganwadi Centre area.

7. In course of hearing, the appellant has filed an additional affidavit annexing thereto the circulars dated 8.3.2011 and 2.3.2012 respectively issued by the Government of Orissa, Revenue and Disaster Management Department. As would evident from the circular dated 8.3.2011, the Government after carefully consideration have been pleased to issue guidelines for issuing resident/residence certificate to the landless persons, who apply for the same under the Orissa Miscellaneous Certificate Rules, 1984. The same is quoted below:

i) Resident/Residence Certificate should not be denied to a land less persons merely because he does not have documentary evidence of ownership of land if the applicant is otherwise eligible.

ii) A person residing in a locality for a period of at least two years continuously may be granted residence certificate for that area.

iii) Wherever the applicant does not own land documentary evidence like extract at voter list Elector's Photo Identity Card (if it contains local address of the applicant), Certificate in support of residence issued by the employer in

Government/Public Sector rent agreement with the land lords, address in Bank Pass Book, bills for public utility services like PHED electricity distribution Company, land line telephone etc. may be accepted in support of local address of the applicant for a period of preceding two years. In the cases of doubt, local enquiry may be conducted.

iv) In the absence of any such documents the eligibility of the applicant may be assessed by field enquiry supported by Statement from neighbours and/or Ward Councillors/Ward Members.

The circular dated 2.3.2012 was issued in view of the fact that the Orissa Human Rights Commission vide their order dated 19.8.2011 have directed the State Government to reduce the qualifying period two years for grant of residence certificate to one year. In deference to the said order, the Government have decided that a person residing in a locality for a period of at least one year continuously may be granted residence certificate for that year.

8. We have examined the case on the anvil of the circulars dated 8.3.2011 and 2.3.2011 respectively. We find that the Tahasildar, Sadar, Cuttack has granted residential certificate to the appellant. The report of the Revenue Inspector dated 2.7.2008 clearly reflects that the appellant has been residing in the village Adalia for the last fifteen years. In the voter identity card issued by the Election Commission of India, resident of the appellant has been described as village Adalia. The voter list of the year 2009 also shows that the appellant belongs to village Adalia. Furthermore, the circulars as quoted above are indicative of the fact that the residential certificate should not be denied to a land less person merely because he does not have documentary evidence of ownership of land. We fail to understand as to why the same should not be granted to a person who resides in a particular locality for a period of at least one year continuously, if he is otherwise eligible.

9. Since the Tahasildar has granted residential certificate to the appellant after causing necessary enquiry, which has not been cancelled till yet, we hold that the she is the resident of village Adalia.

10. For the reasons given above, we allow the appeal and quash the judgment and order passed by the learned Single Judge.

A.K. Goel, C.J.

I agree.