
(2018) 06 CHH CK 0121

Chhattisgarh High Court

Case No: Writ Petition (S) No. 1450 Of 2007

Mamta Bai

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: June 25, 2018

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: H.V. Sharma, Shashank Thakur, F.S. Khare

Final Decision: Allowed

Judgement

P. Sam Koshy, J

1. Challenge in the present writ petition is to the order dated 30.12.2006 (Annexure P-2) whereby the Additional Collector, Kabirdham has cancelled

the order of appointment of the Petitioner on the post of Anganwadi worker at Village Barbhawar under Gram Panchayat Sarekha, District

Kabirdham.

2. The ground on which the order of appointment has been ordered to be cancelled is that of the Petitioner not having the proper certificate of being

under the Below Poverty Line (in short, 'BPL') category. According to the Additional Collector, the Petitioner has produced the certificate of being in

the BPL category that of her grandfather whereas the Respondent No.4, who had also applied for the same post and on whose complaint the

Additional Collector was seized of the matter, has produced the certificate of her father-in-law.

3. According to the learned Counsel for the Petitioner, the said finding of the Additional Collector is not sustainable for the reason that the Additional

Collector did not conduct proper enquiry while ascertaining as to whether the Petitioner did really belong to a BPL category. It was the contention of the Petitioner that on a complaint being made by Respondent No.4, the Additional Collector had found that both, the Petitioner as well as the Respondent No.4, had filed the certificate of being in the BPL category not of theirs, but of, either their grandfather or the father-in-law and therefore the Additional Collector ought to have conducted an enquiry as to the actual annual source of income of the Petitioner as well as Respondent No.4 and then should have reached to the proper conclusion. In the absence of which the Petitioner prays for the quashment of Annexure P-2 and for declaring that the appointment of the Petitioner was in accordance to the law.

4. Learned Counsel for the Respondents on the contrary opposing the petition submits that firstly the writ petition was not maintainable on the ground of there being an alternative remedy of appeal. That as strong reasons have been given by the Additional Collector for setting aside the order of appointment of the Petitioner therefore there is no scope of interference left and thus he prayed for the rejection of the petition.

5. Having heard the contentions put forth on either side and on perusal of record what clearly reflects is that admittedly the Petitioner and the Respondent No.4 had applied for the post of Anganwadi worker under the same village. Both the persons were found to be eligible and were similarly placed except for their certificate showing them to be that of the BPL category. The Petitioner had shown the BPL certificate of her grandfather and Respondent No.4 had shown the BPL certificate of her father-in-law. From the proceeding it appears that the said post is given to a person belonging to BPL category. That since the two disputed party, i.e., the Petitioner and Respondent No.4, both had a BPL certificate of different persons, one from the grandfather and the second from the father-in-law, it would have been fair on the part of the Additional Collector to have first conducted an enquiry and then should have reached to a conclusion as to whether who among the two was really under the BPL category. The Additional Collector could have simply conducted an enquiry so far as the annual income of the two claimants and could have determined the same. The Additional

Commissioner could have also sought verification in respect of the assets and movable and immovable properties that the two candidates had, all of which could have helped in reaching to the conclusion as to who among the two were genuinely in the BPL category. Having not done so, this Court is of the opinion that it cannot be said that a proper assessment has been made by the Additional Collector.

6. Accordingly, the writ petition is allowed. The order of the Additional Collector dated 30.12.2006 (Annexure P-2) deserves to be and accordingly stands set aside. Consequences to flow.