

(2024) 11 SHI CK 0009

High Court Of Himachal Pradesh

Case No: CWP No. 489 Of 2024

Roshani Devi

APPELLANT

Vs

State Of Himachal Pradesh & Ors

RESPONDENT

Date of Decision: Nov. 20, 2024

Hon'ble Judges: Ajay Mohan Goel, J

Bench: Single Bench

Advocate: Arun Kumar, Pushpinder Jaswal, Ishan Sharma

Final Decision: Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this petition, the petitioner has, inter alia, prayed for the following reliefs:-

It is, therefore, most respectfully prayed that the present petition may kindly be allowed and selection respondent No. 6 as Anganwari Worker in Anganwari

Centre Kotlu, Gram Panchayat Galma, Tehsil Balh, ICDS Project Mandi, District Mandi, H.P may be quashed and set aside as the same is against scheme/law and the

petitioner may be declared as selected as Anganwari Worker in the Anganwari Centere Kotlu and the order dated 28.11.2023 passed by the Deputy Commissioner

Mandi in Appeal No. 1/2023 titled as Roshani Devi Vs. Sapna Thakur & Ors may also be quashed and set aside and declared null and void in the interest of

justice and fair play.

2. The case of the petitioner is that the process for appointment of Anganwari Worker/helper was initiated in Anganwari

Centre Kotlu, Gram Panchayat Galma, Tehsil Balh, ICDS Project Mandi, District Mandi, H.P. The petitioner and the private respondent being eligible

to participate in the said process, participated alongwith other candidates. In terms of Annexure P-1, the private respondent was declared as the

selected candidate and the petitioner was declared to be number one in the waiting list. Pursuant to the said merit, the appointment was offered to the

private respondent.

3. Feeling aggrieved by the offer of appointment to the private respondent, the petitioner filed an appeal under Clause 12 of the Scheme/Guidelines for

the selection of Anganwari Workers/helpers, which appeal was rejected by the Appellate Authority vide impugned order dated 28.11.2023 (Annexure

P-2).

4. Feeling aggrieved by the rejection of the said appeal, the petitioner has filed the present writ petition. Learned counsel for the petitioner has

submitted that an Income Certificate was initially issued by the authority concerned to the private respondent, in terms whereof, the annual income of

the family of the private respondent was reflected as Rs. 36,000/- per annum. Thereafter, the private respondent again applied for issuance of an

Income Certificate and the authority obliged her by issuing another Income Certificate just two days after the issuance of the earlier Income

Certificate. Learned counsel has referred to both the certificates which are appended with the petition as Annexures P-3 & 4. Learned counsel has

further submitted that in order to be eligible for being offered appointment as an Anganwari Worker/helper, the maximum ceiling of annual income of

the family of the candidate was Rs. 35,000/- per annum. He argued that it is evident and apparent that the subsequent Income Certificate was

procured by the private respondent just to gain appointment and as only one Income Certificate can be issued by the authority in one financial year,

therefore, the issuance of two Income Certificates for the same financial year in favour of the private respondent was per-se bad. Learned counsel

further submitted that the grounds taken against the appointment of the private respondent in the appeal including this particular ground have not been

appreciated by the Appellate Authority in its correct perspective. Learned counsel further submitted that the Appellate Authority erred in holding that

it was not competent to decide the veracity of the Income Certificate of the private respondent. He submitted that as the Income Certificate subsequently obtained by the private respondent was a nullity, therefore, the Appellate Authority ought to have had declared it as such and allowed the appeal of the petitioner. On these submissions, learned Counsel submitted that the petition be allowed by setting aside the impugned order and further appointment be offered to the petitioner.

5. Learned Additional Advocate General as well as learned counsel for the private respondent have submitted that there is no infirmity in the order that has been passed by the Appellate Authority. They submitted that the Appellate Authority under the scheme/guidelines for the selection of Anganwari Worker/helper was only to go into the legality of the selection process of an Anganwari Worker/helper and said authority was not conferred any power to go into the veracity or legality of the documents on the basis of which incumbent was seeking appointment.

6. Learned counsel for the private respondent has submitted that if the petitioner was aggrieved by the issuance of the subsequent Income Certificate to the private respondent, then the remedy available with the petitioner was to file an appeal in terms of Para No. 28.1 of Chapter 18 of the H.P. Land Records Manual, 1992, which admittedly was not done by the petitioner. He further submitted that subsequent certificate which was issued to the private respondent by the authority concerned has attained finality and the Appellate Authority under the Anganwari Policy was neither having any jurisdiction to decide the legality or veracity of the Income Certificate nor the same has been done by the Appellate Authority. Learned counsel has further drawn the attention of the Court to the order passed by the Appellate Authority and submitted that the Appellate Authority has rightly referred to the provisions of the H.P. Land Records Manual, 1992 and refused the adjudication on the veracity of the Income Certificate. He further submitted that the Appellate Authority indeed even granted liberty to the petitioner to approach the appropriate forum qua her grievance qua the Income Certificate and therefore also, the findings recorded by the Appellate Authority do not call for any interference. Accordingly, it has been contended on

behalf of the respondent that there is no merit in the petition and the same be rejected.

7. I have heard learned counsel for the parties and have carefully gone through the Writ Petition as well as the response filed by the private respondent and documents appended therewith.

8. The primary ground of challenge to the appointment of private respondent by the petitioner before the Appellate Authority was that the Income Certificate tendered by the private respondent was a subsequent Income Certificate issued in her favour and earlier also, an Income Certificate was issued in favour of the private respondent by the authority concerned in terms whereof, the annual income of the family of the private respondent was exceeding the limit rendering a person eligible to seek appointment as an Anganwari Worker/helper.

9. A perusal of the order passed by the Appellate Authority which is under challenge demonstrates that the Appellate Authority has dealt with this issue raised by the appellant in detail in the impugned order. The same has been dealt with from Para No. 8 onwards of the order passed by the Appellate Authority and the Appellate Authority after referring Para No. 28.1 of Chapter 18 of the H.P. Land Records Manual, 1992 held that the Land Records Manual lays down the procedure as to how an aggrieved party can challenge the Income Certificate and, as the Appellate Authority was not the fora under the H.P. Land Records Manual, 1992 to go into the legality of the Income Certificate, therefore, it could not be decided by the Appellate Authority that the certificate issued by the Executive Magistrate was either a bad certificate or an illegal certificate. The Appellate Authority also held that in case the petitioner was having any grievance qua the issuance of the subsequent income certificate, then it was free to approach the relevant forum for adjudication thereupon.

10. The Income Certificates which were issued to the private respondent are appended with the petition as Annexures P-3 & 4. Annexure P-3 is the Income Certificate dated 18.08.2024 issued by the Executive Magistrate concerned and in terms thereof, the annual income of the family of the private respondent was stated to be Rs. 36,000/- per annum. As per learned counsel for the private respondent, this Income Certificate was incorrect

and the authority was approached for rectification thereof and as a result thereof, after the recall thereof Annexure P-4 was issued and in terms

thereof, annual income of the family of the petitioner was Rs. 34,000/- per annum.

11. On the previous date of hearing, the Court had requisitioned the record of selection and perusal thereof demonstrated that the private respondent had submitted for the consideration of candidatures for the post of Anganwari Worker/helper only one Income Certificate in terms of annual income of Rs. 34,000/-.

12. Be that as it may, the moot issue which this Court has to adjudicate is as to whether the Appellate Authority constituted under Clause 12 of the

Scheme/Guidelines for the selection of Anganwari Workers/helper could have decided the issue of the legality of the Income Certificate issued by

Executive Magistrate or not. In the considered view of this Court, the answer is in the negative. The Appellate Authority constituted under Clause 12

of the Scheme/Guidelines for the selection of Anganwari Workers/helper has no power conferred upon it to go into the veracity of Income Certificate

which has been issued by the competent authority. If someone is aggrieved by the issuance of the Income Certificate or the mode and manner in

which the earlier certificate has been resiled etc, then there is a procedure prescribed in the H.P. Land Records Manual as has also been referred to

by the Appellate Authority in its order and that procedure has to be followed by the aggrieved party.

13. In the present case, the petitioner rather than following the procedure prescribed in the H.P. Land Records Manual, assailed the certificate by way

of an appeal preferred under Clause 12 of the Scheme/Guidelines for the selection of Anganwari Workers/helper. This per-se is not permissible and

as has been rightly held by the Appellate Authority this was not in the domain of the said Authority while acting as an Appellate Authority under

Clause 12 of the Scheme/Guidelines for the selection of Anganwari Workers/helper to have had gone in the veracity of the Income Certificate.

14. Therefore, in view of the above discussion, this Court does not find that there is any perversity or infirmity in the findings that have been returned

by the Appellate Authority. This Court concurs with the findings returned by the Appellate Authority that the Forum for assailing the Income

Certificate is as provided under Para No. 28.1 of Chapter 28 of the H.P. Land Records Manual.

15. In light of above discussion, this Writ Petition is dismissed. Pending miscellaneous applications, if any, stand disposed of.