

(2011) 07 JH CK 0047

Jharkhand High Court

Case No: Writ Petition (S) No. 403 of 2008

Renu Devi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: July 1, 2011

Citation: (2011) 3 JCR 449

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

N.N. Tiwari, J.

In this writ petition, the petitioner has prayed for quashing that part of recommendation dated 26.10.2007 passed under the signature of Deputy Development Commissioner, Koderma whereby the selection of the petitioner as Anganwari Sahayika of Charkipahari Anganbari Centre has been cancelled and in her place, name of Smt. Dulari Devi (respondent No. 7) has been recommended for selection of Anganwari Sahayika.

2. It has been stated that the petitioner is the only eligible candidate for being selected as Anganwari Sahayika for Charkipahari Anganbari Centre and in the aam sabha, her name was recommended. On that basis, the petitioner started functioning as Anganwari Sahayika since 20.06.2007. Suddenly by the impugned order dated 26.10.2007, the petitioner's selection was cancelled and in her place, recommendation has been made for selection of respondent No.7.

3. Counter-affidavits have been filed on behalf of the State-respondents as well as on behalf of respondent No.7. In the counter-affidavit filed on behalf of the State-respondents, it has been stated that there were complaints against the selection of Anganwari Sahayika and for that purpose, the complaints were referred to District Monitoring Committee. The District Monitoring committee after

examining the complaints, found that for the Anganwari Centre situated at Harijan Tola where the member of scheduled caste is to be appointed as Anganwari Sahayika, the petitioner, who is not a member of scheduled caste, had been wrongly appointed. It has been stated that said respondent No.7 had produced certificate from which it was found that she is a member of scheduled caste and she possesses the requisite qualifications for selection of Anganwari Sahayika and as such, she was selected in accordance with the provision contained in Para-4.V-G of Letter No.525 Dated 05.6.2003 issued by the Department of Social Welfare, Jharkhand, Ranchi.

4. Mr. Deepak Kumar, learned counsel appearing for the petitioner, submitted that the process of the selection of respondent No.7 is fishy, arbitrary and illegal. The respondent No.7 had produced three different certificates containing different dates of birth. Out of the said certificates, two must have been forged and fabricated. But without making any inquiry into the same, the respondents have arbitrarily selected respondent No.7 for the post of Anganwari Sahayika and cancelled the selection of the petitioner. He further submitted that if any inquiry is set up by this Court, truth will come out and the respondent No.7 shall be exposed. She is not eligible for appointment as Anganwari Sahayika for the centre in question.

5. Learned counsel appearing for respondent No.7 submitted that the allegation of the petitioner is wholly false and baseless. Respondent No.7 is a member of scheduled caste, she has produced genuine certificate. She has been duly selected for the said post in accordance with the prescribed norms and rules. In the aam sabha dated 09.6.2007, the petitioner had participated, but on that date, she could not produce the required certificate. Subsequently the petitioner produced the certificate and since the selection was for Harijan Tola where the members of scheduled caste are in majority and respondent No. 7 is a member of scheduled caste, she was appointed in accordance with the prescribed procedure.

6. I have heard learned counsel for the parties and considered the facts and materials on record. According to the petitioner, the selection of respondent No. 7 is illegal and is based on forged and fabricated certificate. Learned counsel for the petitioner referred to three certificates showing different dates of birth. Learned counsel for the respondents submitted that two certificates have been produced by respondents-State and two certificates have been produced by respondent No.7. It has been submitted that the certificate which Is forged one has been relied upon for appointing the respondent No.7. On the other hand, the respondent No.7 has denied the said allegation and submitted that the certificate which has been relied upon by the authority for appointing her as Anganwari Sahayika is genuine.

7. In view of the aforesaid dispute of facts, this Court is not in a position to hold that the selection of the respondent No.7 is based on the forged document. From the record I find that the decision has been taken by the high level committee mainly on the basis that the Centre situates in the Harijan Tola where the members of scheduled caste are in majority and according to the guidelines for appointing

Anganwari Sahayika, a person of the community which has majority has to be appointed. Respondent No.7, admittedly, is a member of Scheduled Caste and the members of scheduled caste are in majority in Harijan Tola where the Centre is situated. The Committee which has taken the said decision consist of the local M.P. the local M.L.As., the District Welfare Officer, the Additional Collector-cum-District Program Officer, the Deputy Development Commissioner, Koderma and the Deputy Commissioner, Koderma.

8. Since the question raised by the petitioner is of disputed facts; the same cannot be adjudicated upon and decided in writ jurisdiction of this Court. The petitioner is at liberty to approach appropriate forum for such adjudication.

9. This writ petition is accordingly, dismissed. Petition dismissed.