



23/12/08

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (227) NO.5743 OF 2008

PETITIONER

Smt. Seema Nirmalkar

Revisioner

Vs

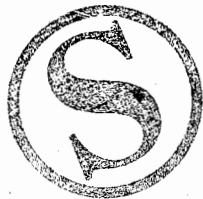
RESPONDENTS

State of Chhattisgarh and others

POST FOR ORDERS ON 19 -12-2008

Sd/-  
Dhirendra Mishra  
Judge

19-12-2008



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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WRIT PETITION (227) NO.5743 OF 2008**

**PETITIONER**  
**Revisioner**

Smt. Seema Nirmalkar, W/o Shri Sanjoo Nirmalkar, Aged about 30 years, Aanganbadi Worker, R/o Village Kesda, Janpad Panchayat Simga, Distt. Raipur (CG)

Vs

**RESPONDENTS**

1. State of Chhattisgarh, Through the Secretary, Department of Panchayat & Social Welfare, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. The Director, Panchayat & Social Welfare, Raipur.
3. The Additional Collector, Baloda Bazar, Raipur, Distt. Raipur (C.G.)
4. The Chief Executive Officer, Janpad Panchayat Simga, Distt. Raipur (C.G.)
5. Smt. Binda, W/o Shri Shesh Narayan Verma, R/o Village Kesda, Tahsil- Simga, Distt. Raipur (CG)

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**Present:**

Mr. A.S. Rajput, Advocate.	: For the petitioner.
Mr. P. Shrivastava, Panel Lawyer	: For respondent No.1 to 3.
Mr. C.J.K. Rao, Advocate	: For respondent No.4.
Mr. C.R. Sahu, Advocate	: For respondent No.5.

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**ORDER**

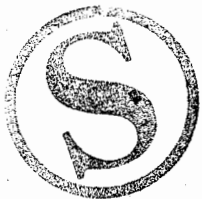
(Passed on 19<sup>TH</sup> December, 2008)

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Dhirendra Mishra, J

1. By this petition the petitioner has impugned the order dated 30.9.2008 passed in Revision Case No.230/A.89/2007-08 whereby respondent No.2-Director, Panchayat has rejected the revision petition of the petitioner and confirmed the order dated 7.4.2008 passed by the respondent No.3-Additional Collector, Baloda Bazar in Appeal Case No.30-A/89/2006-07 setting aside the appointment of the petitioner on the post of Aanganbadi Worker.
2. Case of the petitioner, in brief, is that in response to the advertisement for appointment on the post of Aanganbadi Worker for Gram Panchayat Kesda issued by respondent No.4-Chief Executive Officer, Janpad Panchayat Simga, the petitioner, respondent No.5 and others have submitted their applications and their names were forwarded by the Gram Panchayat to respondent No.4, whereupon respondent No.4 appointed the petitioner as Aanganbadi Worker of Gram Panchayat Kesda vide order dated 20.12.2006. Against the appointment of the petitioner, respondent No.5 preferred an appeal before the Additional Collector, Baloda Bazar, who vide order dated 7.4.2008 allowed her appeal, set aside the appointment of the petitioner and directed respondent No.4 to do needful in accordance with the rules for appointment of respondent No.5 herein. Against the order of Additional Collector dated 7.4.2008 the petitioner preferred a revision petition before respondent No.2-Director, Panchayat, who vide impugned order dated 30.9.2008 rejected revision of the petitioner.
3. Mr. Rajput, learned counsel appearing for the petitioner submits that the Additional Collector has allowed the appeal of respondent No5 herein on the ground that she is the member of 'Antouday Family' and as such, she hails from



extremely poor family and therefore, she is entitled for the first preference, though as per guidelines issued by the State Government no such criteria exists for giving preference in the matters of appointment on the post of Aanganbadi Workers. Respondent No.2-Director, Panchayat rejected the revision of the petitioner for a different reason that the petitioner has failed to produce the certificate that her name exists in the list prepared for the members living Below Poverty Line (for short 'BPL') for the relevant period. The finding of the Director, Panchayat is also contrary to the material available on record because the Additional Collector in Para 5 of his order has categorically mentioned that the petitioner herein has produced BPL record for the year 2005. He further contended that name of Ramlal, father-in-law of the petitioner herein, as head of the family appears in the BPL list prepared for the year 1997-98, however, since the petitioner's marriage to his son Sanju took place in the year 2000, name of the petitioner does not find place in the above list. The Director, Panchayat accepted the BPL certificate issued to respondent No.5's father-in-law in the year 1997-98, however, rejected the same certificate issued in favour of the petitioner's father-in-law for the year 1997-98 to conclude that the petitioner has failed to produce BPL certificate despite being afforded opportunity for the same.

4. On the other hand, Mr. Sahu, learned counsel appearing for respondent No.5 in his return as well in the oral arguments submitted that the petitioner has failed to produce BPL card for the year 1997-98. Ramlal, father-in-law of the petitioner was issued BPL card in the year 1991-92. The petitioner's husband is gainfully employed as agent of Life Insurance Corporation and also as Veterinary doctor. The petitioner herself is serving as teacher in Saraswati Shishu Shiksha Mandir and the above facts have been deliberately

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suppressed by her to secure the appointment. As per policy of the State Government, respondent No.5 was entitled for preference in the appointment as Aanganbadi Worker, as she hails from Antouday Family and therefore, learned Additional Collector as also Director, Panchayat are justified in setting aside the order of appointment of the petitioner and in further directing to appoint respondent No.5 in her place.

5. I have heard learned counsel for the parties.
6. It is not in dispute that as per directions contained in circular dated 6.1.2008 of the State Government for seeking appointment as Aanganbadi Worker, a candidate should be resident of concerned Gram Panchayat; his/her name should appear in the voter list of the said Gram Panchayat; preference should be given to a candidate who is 10<sup>th</sup> pass, however, in appropriate cases where such candidates are not available, a candidate who has passed the 8<sup>th</sup> class can also be considered for appointment; top preference is to be given to widow/deserted female candidate; candidates belonging to BPL families, Scheduled Castes & Scheduled Tribes categories are also entitled for preference.
7. From close scrutiny of the orders passed by the Additional Collector and the Director Panchayat it transpires that the petitioner is graduate, whereas, respondent No.5 is 10<sup>th</sup> pass. Both belong to OBC category and are residents of village Kesda. From the orders it also reveals that the petitioner as also respondent No.5 belong to BPL category and there is sufficient material available on record on the basis of which the Additional Collector has observed that the petitioner is relying upon the BPL documents for the year 2005.
8. After going through the guidelines issued in the circular referred in the order of the Additional Collector it is clear that there is no provision of preference to be given to a

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candidate belonging to Antouday family vis-à-vis a candidate belonging to BPL family and to that extent the reasons assigned by the Additional Collector for setting aside the appointment of the petitioner is contrary to the guidelines. The Director, Panchayat has also wrongly held that the petitioner failed to produce BPL certificate for the relevant period. The above finding is contrary to the observations made by the Additional Collector in this regard in Para-5 of its order. Since the petitioner's name was recommended along with other candidates for appointment and on due consideration, on the basis of Supervisor's report, Janpad Panchayat Simga appointed the petitioner as Aanganbadi Worker way back in the year 2006, the order of Additional Collector setting aside the appointment of the petitioner was stayed by the Director, Panchayat and since the petitioner was eligible for appointment as Aanganbadi Worker and respondent No.5 was not entitled for any preference in terms of the guidelines, this Court is of the opinion that the orders passed by the both the courts below setting aside the appointment of the petitioner from the post of Aanganbadi Worker of Gram Panchayat Kesda are illegal and the same deserves to be set aside.

9. In the result, the petition is allowed and the impugned orders dated 30.9.2008 (Annexure P-4) & 07.04.2008 (Annexure P-3) are hereby set aside. No order as to costs.

Sd/-  
Dhirendra Mishra  
Judge