

WP(C) 678/2010

BEFORE

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

Heard Ms. P. Das, counsel for the petitioner as well as Ms. M. Bhattacharjee, counsel for the State respondents.

The petitioner's case, in brief, is that she had applied for the post of Anganwadi Worker in Kustali No. 1 Ward (Suntali LP School) Centre No. 311 Anganwadi Centre under Mayang Integrated Child Development Project, Jagiroad, district Morigaon in pursuance to the advertisement dated 19/09/2009. The petitioner and the other candidates appeared for the interview which was held on 27/10/2009.

The petitioner's counsel submits that though the petitioner's name had initially appeared in the top of the select list, which was based on merit, the name of the petitioner suddenly disappeared from the merit list and in her place the name of the respondent No. 5 was put in the merit list at SL No. 1. The petitioner's counsel submits that the petitioner being more meritorious than the respondent No. 5 and as the respondent No. 5 was not a resident within the jurisdiction of the concerned Anganwadi Centre, the petitioner should be appointed to the post of Anganwadi Worker and if the respondent No. 5 has been appointed to the said post, the said appointment should be set aside. Ms. M. Bhattacharjee, counsel for the State respondents submits that the respondent No. 5 secured more marks than the petitioner in the selection process and that the residence of the petitioner is nearer to the concerned Anganwadi Centre.

I have heard the learned counsels for the parties.

Para 5 of the affidavit-in-opposition filed by the respondent No. 3 on 24/05/2010 is reproduced below :

That as regards statement made in the paragraphs 5 of the writ petition the answering deponent begs to state that the respondent No. 5 along with other applicants submitted residential proof certificate issued by the President, Jahargaon Panchayat, dated 09-09-2009 and as per the certificate she is residing nearer to Kustali No. Ward (Suntali LP School) Centre No. 311 Anganwadi Centre. The respondent No. 5 was selected on the basis of her performance in HSLC and the interview. Whereas the petitioner secured 96 marks in aggregate, the respondent No. 5 secured 171 marks in aggregate.

A perusal of the above shows that the respondent No. 5 secured more marks than the petitioner and on the ground of merit the petitioner could not have been selected over and above the respondent No. 5. However, the respondent No. 3 in the said affidavit has not made a specific averment to the effect that the respondent No. 5 is a resident within the jurisdiction of the concerned Anganwadi Centre. This being a disputed question of fact, the said clarification would have to be made by the authorities after making an enquiry.

Accordingly, the Director or his representative is directed to cause an enquiry into whether the respondent No. 5 is a resident within the jurisdiction of the said Anganwadi Centre and if it is found in the enquiry that the respondent No. 5 is not a resident of the said Anganwadi Centre, the appointment of the respondent No. 5, if any, should be set aside and the person who secured the highest marks in the selection process after the respondent No. 5 should be given an appointment to the said post.

Writ petition is accordingly disposed of.