

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.902 of 2012**

Lalit Kumar Sahu son of M.R. Sahu, aged about 26 years, Shiksha Karmi Grade-III, Govt. High School, Village Nandal, resident of Village Chherkapur, Post Nawagarh, Tahsil and Police Station Nawagarh, District Bemetara (CG)

----Petitioner

Versus

1. Sukhmandas Manikpuri, Son of Shri Meladas Manikpuri, resident of Village and Post Chhitapar, Police Station and Tahsil Nawagarh, Bemetara (CG)
2. Chief Executive Officer, Janpad Panchayat, Nawagarh, District Bemetara (CG)

---- Respondents

For Petitioner	:	Mr.P.P.Sahu, Advocate
For Respondent No.1	:	Mr.Ravi Bhagat, Advocate
For Respondent No.2	:	Mr.Akhilesh Kumar, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

31/08/2017

1. The petitioner was appointed on the post of Shiksha Karmi Grade-III by order dated 8.8.2007 and posted at High School, Nandal. Against his appointment, respondent No.1 herein filed an application before the Additional Collector, Bemetara, in which the petitioner made an objection stating inter-alia that such an application is not maintainable, it is neither appeal nor revision and it is barred by limitation, therefore, it cannot be entertained. The Additional Collector, Bemetara has fixed the case for hearing on admission of the application that adjourned time to time for hearing on admission and ultimately, on 3.3.2011 the matter was heard on admission and on 7.4.2011, the Additional Collector, Bemetara allowed the application filed by respondent No.1 and set aside the appointment order of the

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petitioner dated 8.8.2007. Against the order of the Additional Collector, Bemetara, the petitioner preferred the revision before the Commissioner, Raipur Division, Raipur. The Commissioner has dismissed the revision filed by the petitioner. Being aggrieved and dissatisfied with the order of the Commissioner, this writ petition under Article 227 of the Constitution of India has been filed by the petitioner herein.

- 2.** Mr.P.P.Sahu, learned counsel appearing for the petitioner, would submit that case was fixed for hearing on the question of admission of the application as it is an objection of the petitioner that it is neither appeal nor revision and it is also barred by limitation, therefore, it cannot be entertained, but without considering the objection of the petitioner and without condoning the delay in filing such application, the Additional Collector has passed the order on merits and on revision being filed, the Commissioner has also affirmed the order passed by the Additional Collector, Bemetara. Therefore, the order passed by the Additional Collector, Bemetara as well as the order passed by the Commissioner, Raipur Division, Raipur deserve to be set aside.
- 3.** On the other hand, learned counsel appearing for respondents No.1 and 2 would support the impugned order.
- 4.** I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

- 5.** It is correct to say that the petitioner has filed an objection with regard to maintainability and admissibility of the application filed by respondent No.1 with delay of 1 year and 9 months, therefore, it ought not to have been entertained by the Additional Collector without considering the objection so raised, the Additional Collector has fixed the case for hearing on that objection right from 7.5.2009 and heard only on that objection, but on 7.4.2011 final order has been passed without considering the question of maintainability of that application.
- 6.** Accordingly, the order dated 7.4.2011 (Annexure P/8) passed by the Additional Collector, Bemetara in Revenue Case No. 39-B/121/2010-11 and order dated 4.12.2012 (Annexure P/1) passed by the Commissioner, Raipur Division, Raipur in Revision Case No.231/B—121/2010-11 are hereby set aside. The matter is remanded back to the court of Additional Collector, Bemetara, who will hear both the parties on the question of maintainability of the application and to decide the same strictly in accordance with law on its own merit.
- 7.** The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge