

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 30TH DAY OF OCTOBER, 2021

BEFORE

HON'BLE MR. JUSTICE SANDEEP SHARMA

CIVIL WRIT PETITION NO. 3348 OF 2009

Between:-

**SMT. SEETA DEVI ALIAS SITA DEVI,
W/O SH. HANS RAJ,
R/O VILLAGE MANWANA, P.O. SALWANA,
TEHSIL SUNDERNAGAR, DISTT. MANDI, H.P.**

... PETITIONER

(BY KARAN SINGH KANWAR, ADVOCATE)

AND

- 1. STATE OF HIMACHAL PRADESH,
THROUGH ITS SECRETARY (SOCIAL JUSTICE AND
EMPOWERMENT)
TO THE GOVERNMENT OF HIMACHAL PRADESH,
SHIMLA-2.**
- 2. SMT. SHEELA DEVI,
WD/O LATE SH. HARIMAN,
R/O VILLAGE MANWANA, P.O. SALWANA,
TEHSIL SUNDERNAGAR, DISTT. MANDI, H.P.**
- 3. CHAIRMAN,
SELECTION COMMITTEE, (S.D.M.),
SUNDERNAGAR, DISTT. MANDI, H.P.**
- 4. CHILD DEVELOPMENT PROJECT OFFICER,
SUNDERNAGAR, DISTRICT MANDI, H.P.**
- 5. A.C.D.P.O. SUNDERNAGAR,
DISTRICT MANDI, H.P.**
- 6. SMT. SUNITA DEVI,
W/O SH. NATHU RAM,
R/O VILLAGE GUDDI DHAR, POST OFFICE SALWANA,
TEHSIL SUNDERNAGAR, DISTRICT MANDI, H.P.**
- 7. SMT. SUNDRI DEVI,
W/O SH. BALBIR SINGH,
R/O VILLAGE GUDDI DHAR, POST OFFICE SALWANA,
TEHSIL SUNDERNAGAR, DISTRICT MANDI, H.P.**

8. **DIVISIONAL COMMISSIONER,
MANDI, DIVISION, DISTT. MANDI, H.P.**

RESPONDENTS

**(MR. DESH RAJ THAKUR,
ADDITIONAL ADVOCATE GENERAL
WITH MR. NARINDER THAKUR
AND MR. KAMAL KISHORE,
DEPUTY ADVOCATES GENERAL,
FOR R-1 AND R-4 TO R-5 AND R-8**

**MR. PRANAY PRATAP SINGH, ADVOCATE
FOR R-2**

R-3, 6 AND 7 SERVED)

Whether approved for reporting: .

This petition coming on for orders this day, the court passed the following:

O R D E R

Petitioner as well as respondent No.2, Sheela Devi, alongwith proforma respondent Nos. 6 and 7, came to be interviewed for the post of Anganwari Helper at Anganwari Centre, Manwana under ICDS block Sundernagar, District Mandi and in this selection process, petitioner was selected by the Selection Committee. Being aggrieved with the appointment of the petitioner, respondent No.2 filed an appeal before learned Deputy Commissioner, Mandi on two grounds firstly, that respondent No.2 being widow, deserves 02 extra marks and secondly, the petitioner was not entitled for said post as she had separated from her family after 1.1.2004 and her family income prior to that was more than the maximum limit laid down in the conditions mentioned in the Notification.

2. Learned Deputy Commissioner, Mandi, dismissed the appeal vide order dated 3.9.2007, and upheld the appointment of the petitioner. Being

aggrieved and dissatisfied with order dated 3.9.2007 passed by Deputy Commissioner, respondent No.2 filed appeal bearing No. 30/07 before Divisional Commissioner, Mandi on the ground that she was entitled to 02 additional marks in terms of scheme. Appeal of the respondent No.2 was allowed and direction was issued to the Selection Committee to award her 02 additional marks on account of her being widow.

3. Being aggrieved and dissatisfied with the order passed by learned Divisional Commissioner, petitioner herein preferred CWP No. 440 of 2008 in this court, which came to be disposed of on 22.4.2008 by this court, whereby direction was issued to the Selection Committee to reconsider the question, whether respondent No.2 is entitled to 02 marks or not?

4. Being aggrieved and dissatisfied with aforesaid direction issued by the Division Bench of this court petitioner preferred SLP(C) No. 15371 of 2008 before Hon'ble Apex Court, which was dismissed vide order dated 2.7.2008. In the aforesaid background, the Selection Committee pursuant to directions contained in order dated 22.4.2008, reconsidered the matter and awarded 02 marks to respondent No.2, on account her being a widow, as a consequence of which, respondent No.2 came to be selected as Helper at Anganwari Centre, Manwana, District Mandi, in place of the petitioner.

5. Against the selection of respondent No.2, petitioner filed appeal before Deputy Commissioner, Mandi i.e. File NO. 833 of 07, which came to be decided on 1.9.2008, whereby, Deputy Commissioner Mandi upheld the appointment of respondent No.2. Petitioner again laid challenge to aforesaid order of Deputy Commissioner before Divisional Commissioner Mandi by way of appeal No. 656 of 2008, which came to be decided vide order dated 28.3.2009. Learned Divisional Commissioner, after perusing record arrived at

a conclusion that there is no material placed on record by the petitioner that at the time of interview, monthly income of respondent No.2 was above prescribed limit and as such, her selection cannot be held to be illegal.

6. In the instant petition, petitioner has laid challenge to order dated 28.3.2009 passed by learned, Divisional Commissioner Mandi, rejecting therein appeal filed by her.

7. Having heard learned counsel for the parties and perused the record, this court finds that the petitioner repeatedly laid challenge to the selection of respondent No.2 in various courts of law, including Hon'ble Apex Court, however, the fact remains that she has not been able to prove on record by leading cogent and convincing evidence that at the time of selection of respondent no.2, her monthly income was more than the prescribed limit.

8. Mr. Karan Singh Kanwar, learned counsel for the petitioner, while inviting attention of this court to certificates dated 17.4.2009 and 7.10.2008, issued by the Pradhan, Gram Panchayat, Salwana, vehemently argued that at the time of interview annual income of respondent No.2 was more than Rs.12,000 and as such, authorities below have erred in concluding that the annual income of respondent no.2 was less than the prescribed limit.

9. Having perused the documents placed on record, this court finds that vide certificate dated 17.4.2009 Pradhan, Gram Panchayat Salwana has certified that the annual income of Shri Bhangu Ram, resident of Village Manwana, Post Office Salwana, Tehsil Sundernagar, District Mandi, was more than Rs.8,000/-. Besides above, above, aforesaid Pradhan, vide certificate dated 7.10.2008 issued in favour of respondent No.2 has also certified that annual income of Sheela Devi (respondent No. 2), is Rs.5800/-.

10. Since in both the certificate as taken note herein above, Pradhan, concerned Gram Panchayat has certified income of petitioner and her father-in-law, separately, it is not understood that on what basis, petitioner claims that at the time of interview, annual income of respondent No.2 was more than prescribed limit.

11. Mr. Karan Singh Kanwar, Advocate, further argued that since on the date of interview, both respondent No.2 and her father-in-law, were living in a joint family, income of both the parties was required to be clubbed together for ascertaining the annual family income of respondent No.2, However, aforesaid submission made by learned counsel for the petitioner is not based upon true facts because, material available on record reveals that respondent No.2 was separated from her joint family on 21.9.2006 i.e. before her being subjected to interview against the post of Anganwari Helper at Anganwari Centre concerned. Aforesaid fact has been established on record by respondent No.1 by placing on record Parivar register entry. Petitioner has not been able to refute the entry aforesaid made in the Parivar register. Petitioner though claimed before the authorities below that respondent No.2 procured a false certificate with regard to her separation, but such fact never came to be proved by leading cogent and convincing evidence by the petitioner.

12. Consequently, in view of above, this court finds no illegality or infirmity in the order dated 28.3.2009 passed by Divisional Commissioner upholding the selection of respondent No.2 and as such, same is upheld, in result whereof, the petition is dismissed being devoid of merit, alongwith all pending applications.

**(Sandeep Sharma),
Judge**

October 30, 2021
(vikrant)

