



IN THE HIGH COURT OF ORISSA AT CUTTACK

WA No. 361 of 2025

Mamata Samantaray *Appellant*

-Versus-

State of Odisha and others *Respondents*

Advocates appeared in this case :

For Appellant : Mr. Sukanta Kumar Dalai, Advocate

For Respondents : Mr. Bimbisar Dash, AGA
: Mr. A.K. Sharma, Advocate
: Mr. B. Rout, Advocate

CORAM:

**THE HON'BLE MR. JUSTICE ARINDAM SINHA,
THE ACTING CHIEF JUSTICE**

AND

THE HON'BLE MR. JUSTICE M.S. SAHOO

J U D G M E N T

Date of hearing: 20th February, 2025

Date of judgment: 25th February, 2025

ARINDAM SINHA, ACJ.

1. Appellant before us is an Anganwadi Worker selected pursuant to order made by the appellate authority being the Additional District



Magistrate. The selection was challenged by respondent no.6. Impugned judgment was made in her favour. Mr. Dalai, learned advocate appears on behalf of appellant, Mr. Sharma, learned advocate for respondent no.6 and Mr. Dash, learned advocate, Additional Government Advocate, for State.

2. Paragraph-4 in impugned judgment records the facts. The paragraph is reproduced below.

*“4. The State-authorities have filed counter, inter alia, stating that though the petitioner was selected as Anganwadi Worker, complaints were raised by the villagers of the concerned village before the CDPO, Pipili alleging that there were some faulty addresses of villages of Nijigarh Khurkhi-1 Center in the advertisement. As such, the selection of the petitioner was kept in abeyance till a decision by the Selection Committee. The next Selection Committee presided over by the Sub-Collector, Puri was convened on 06.04.2013 wherein it was decided to issue fresh notification for the center in question in view of allegations made by the villagers regarding mistakes in the advertisement dated 30.03.2012. **It is further stated that the ADM being the Appellate Authority, after hearing the parties rightly set aside the selection of the petitioner and directed for undertaking fresh selection process.** It is also stated that as per inquiry, it was*



revealed that the petitioner has already married and her name was deleted in the Survey list of the center, while the opposite party No.6 was found to be a resident of the service area of the center.”

(emphasis supplied)

3. Further facts as appearing from impugned judgment are that pursuant to the advertisement there were two candidates, appellant and respondent no.6. In the selection process appellant was found to have secured highest marks. On scrutiny she was disqualified on not being resident of the service area.

4. On no engagement order issued, respondent no.6 had preferred appeal to the Additional District Magistrate. She also obtained information that the Selection Committee had decided to cancel the advertisement on the ground it was faulty and had decided to go for fresh selection process. It follows, omission to issue engagement order was because fresh selection process, as necessary, was decided. Prayer made by respondent no.6 in her appeal is reproduced below.

“Therefore, it is prayed that the learned Court be pleased to pass order to admit this appeal, call for the records from the Office of the C.D.P.O., Pipili and after hearing the parties allow the appeal and set-aside the impugned direction dated 6.4.2013 to respondent No.1 and pass an



order directing the C.D.P.O., Pipili for issuing appointment letter in favour of Appellant in respect of Nijigadakurkhi Anganwadi Centre and for this act of your honour's kindness, the appellant shall as in duty bound ever pray."

5. The appellate authority confirmed decision on fresh selection process. The process was resorted to and appellant became successful. Respondent no.6 moved the writ Court on prayer to quash order dated 25th October, 2023, of the appellate authority.

6. Reproduced below are first two paragraphs from impugned in the writ petition order dated 25th October, 2023 and the two paragraphs bearing the reasons.

"This is an appeal filed by Tikina Mallick challenging the impugned direction dated 06.04.2013 of the Anganwadi Worker Selection Committee for issue of fresh notification in respect of Nizigarh Kurkhi Anganwadi Centre-1 on the plea of the earlier Notification wrong. The appellant also alleged that the Selection Committee has ignored their earlier decision dated on 24.01.2013 whereby the appellant was duly selected. She has prayed to set aside the impugned order dated 06.04.2013.

During the process of hearing one Mamatarani Samantaray, W/o-Basanta Kumar Mahapatra of Nizigarh Kurkhi P.S, Pipili, Dist-Puri was impleaded as an



intervener through her Advocate stating to be an applicant for the post of Anganwadi Worker in respect of Nizigarh Kurukhi Angan Wadi Centre-1.

xxx

xxx

xxx

Further, the Tahasildar, Pipili and C.D.P.O, Pipili directed to enquiry on the residence of two candidate. It reveals from the joint inquiry report conducted by the Tahasildar, Pipili, C.D.P.O, Pipili and R.I, Kanti that both appellant and intervenor resides under the service area of Nijigarh Kurkhi-I Anganwadi centre. The name of appellant finds place against serial number 110 of Family Survey Register and the name of intervenor finds place against serial number 140 of Family Survey Register of Nijigarh Kurkhi-I Anganwadi centre.

In view of the aforementioned observation this Court finds that both the appellant and the intervenor are found eligible applicants for the post of Anganwadi worker in respect of Nizigarh Kurkhi-I Anganwadi centre. As such, the rejection of candidature of intervenor is not acceptable and hence engagement of the appellant by rejecting the candidature of intervenor on the basis of residence is hereby set aside. The Selection Committee headed by the Sub-Collector-cum-Chairman is directed to take up selection afresh in respect of Nizigarh Kurkhi-I Anganwadi centre by considering only the candidates applied in response to the advertisement published vide



No.192 dt. 30.03.2012 following due procedure. The appeal is disposed of accordingly.”

(emphasis supplied)

7. We have had learned advocates appearing for the parties.
8. It appears from impugned judgment, two reasons were given for interfering with impugned in the writ petition appellate order dated 25th October, 2023. First reason is, the selection board could not have directed fresh advertisement on having had selected respondent no.6 on a selection process undertaken. Second reason is, appellant herself had not appealed but intervene in the appeal preferred by respondent no.6, to get added and then secured order of confirmation on the board's decision to have fresh selection. The learned single Judge was of view, the selection board did not have power of review. Hence, the appellate authority finding to confirm the decision is perverse.
9. It will appear from above reproduced reasoning paragraphs in the appellate order that the authority had conducted fresh inquiry. It transpires from the inquiry, made on cognizance taken of complaints received, the appellate authority also found mistake, to direct the selection board to call appoint appellant, who had got higher marks but had been disqualified on mistake of residential location, as fresh



selection on basis of the advertisement. The appellate order supplies reasons for the decision. Undoubtedly, it was made on having heard respondent no.6 and appellant, who had subsequently intervened and got added as party. State's interest through the Child Development Project Officer (CDPO) was also considered by the inquiry made through the office. In the circumstances, interference with the appellate order on merit regarding decision of the selection board go for fresh advertisement ought not to have been entered into.

10. True it is that the selection board does not have power of review. It went ahead and cancelled the selection process on decision taken. Grievance of respondent no.6 was omission to issue engagement order. Thus, controversy before the appellate authority was between respondent no.6 and those opposing her on the question arisen by the omission. Reason for the omission was decision to issue fresh advertisement. As aforesaid, the appellate authority pronounced upon the controversy, gave reasons and directed fresh selection of appellant on the basis of the original advertisement.

11. Moving on to second reason given in impugned judgment that, it was significant appellant had herself not preferred appeal but had later intervened in the appeal preferred by respondent no.6, to get



herself added and thereupon obtained order from the appellate authority in confirming fresh selection process for her appointment, the reason also cannot be sustained. Where the selection process rendered appellant unsuccessful, order of engagement was not issued to the successful candidate who preferred appeal, we do not see appellant stood aggrieved by the situation. It follows, she did not appeal. When she came to know her competitor, who had secured less marks had preferred appeal, to protect her interest she applied to intervene and got herself added. It led to a situation where the appellate authority had everybody before it and passed order.

12. Impugned judgment is reversed in appeal. The appellate order is restored. The appeal is disposed of.

(Arindam Sinha)
Acting Chief Justice

(M.S. Sahoo)
Judge

Sks

Signature Not Verified

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