

IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU
Present Dr. Pawan Kotwal, IAS.

File No.
56/Appeal
2012-13

Date of Institution
23-01-2013

Date of Decision.
03-03-2017

"Kiran Sharma W/o Bharat Bhushan
R/o Qazi Mohara Tehsil Haveli District Poonch

(Petitioner)

Versus

1. Shammi Riyaz W/o Mohd Younus R/o Village Galutha Tehsil Mendhar, Distt. Poonch
2. Dy. Commissioner, Poonch
3. Child Development Project Officer, Poonch
4. Programme Officer, Child Development, Poonch. (Respondents)

In the matter of:-

Revision petition against the order of Deputy Commissioner, Poonch dated 01-12-2012 in file No.90 by virtue of which he has upheld the appointment order of Respondent No.1 passed by CDPO Poonch vide No. ICDS/H/76-81/2011 dated 25-02-2011 as Anganwari Worker for Qazi Mohra Center Haveli, Poonch.

Prayer for setting aside both the orders.

Appearing Counsels: Advocate G C Sharma for Petitioner
Advocate Z A Mughal for respondents

ORDER

1. The petition has been filed on the following grounds that:-
 - a. The order passed by CDPO Poonch engaging Respondent No.1 as Anganwari Worker who admittedly is resident of Village Galutha (B) Tehsil Mendhar and upholding the same by the Deputy Commissioner, Poonch is perverse and is against facts and law, is liable to be set aside.
 - b. The Court below failed to appreciate the fact that the Respondent No.1 is the resident of village Galutha (B) Tehsil Mendhar
 - c. Respondent No.1 engaged as Anganwari Worker is the resident of Village Galutha. B Tehsil Mendhar and is not eligible to be engaged as Anganwari Worker for Qazi Mohra Centre meant for the candidates of Qazi Mohra Poonch.
 - d. Respondent has been registered in two different places in electoral Rolls and under no circumstances could be entitled to have to be benefited by registering at two Places.

2. Counsel for respondent No.1 filed written arguments wherein it is submitted that:
- That the above titled appeal has been filed by the appellant against the selection of the answering respondent on vague grounds and facts.
 - The answering respondent is the resident of Ward No.1 Qazi Mohalla, in which she resides and applied for the post in question. To substantiate this fact, copy of the voter list, Voter ID card of the respondent, certificate of residence issued by the Municipal Councilor, Ward No.1 It is respectfully submitted that prior to the appointment of the answering respondent as Anganwari Worker, an enquiry was also conducted wherein it was found that the answering respondent is the resident of ward No.1 the said verification was conducted by the Tehsildar Haveli, District Poonch.
 - That both the appellant as well as answering respondent are the residents of the Ward No.1 and as the answering respondent was higher in merit, as such, came to be selected and appointed as Anganwari Worker for AWC Ward No.1.
 - That with regard to the residence of the respondent the Deputy Commissioner has already returned his findings. The order was passed by the Deputy Commissioner on dated 01-12-2012. The finding of the Deputy Commissioner dated 01-12-2012 have attained finality, as the said Kiran Sharma has not challenged the order of the Deputy Commissioner Poonch dated 01-12-2012 with in the stipulated period of 15 days from the date of passing of the said order in view of the Govt. Order dated 18-01-2010 wherein the limitation period has been prescribed.
 - That the answering respondent has already been appointed and joined her duties and performing her services till date. The salary of the answering respondent has not been paid to her till date due to the pendency of the appeal.
3. Counsel for petitioner also filed written arguments wherein he took the same grounds taken in the memo of petition.
4. The case came up for hearing. Counsel for both the parties present. Counsel for petitioner pleaded the grounds taken in petition & further pleaded that Resp.No.1 originally belong to Qazi Mohra. Haveli has been married to Mohd Younis R/o Galuta Mendhar. As per PRC the address of the Respondent 1 has been mentioned Village Galute Mendhar. Her name exists in voter list at both places & prayed to set aside the order impugned.
5. Respondent contended that respondent No.1 is the resident of Qazi Mohalla and relied her claim on voter list, voter ID Card & certificate of residence issued by the councilor of W.No.1. He further argued that before appointment, an enquiry was conducted by Tehsildar Haveli & the Respondent No.1 has been found the resident of W.No.1.
6. He submitted that both appellant & respondent are the residents of W.No.1 & respondent has been appointed because of her higher merit & prayed to dismiss the petition.

I have heard the arguments advanced by the counsel of both the parties & record file of the subordinate Court examined. The dispute between the parties is with regard to residential status of respondent No.1

7. The contention of petitioner is that her PRC pertains to Tehsil Mendhar and her name figures in voter list of Panchayat Election 2007 for Village Galutha.


Whereas respondent is claiming to be resident of Qazi Mohalla and copies of Voter list, Voter ID Card & certificate of residence issued by the councilor of W.No.1.

found in the record file appears to substantiate her claim. Moreover, court below has also conducted an enquiry in this regard and has dealt with the issue accordingly.

8. However a report from Electoral Registration officer Poonch dated 24-10-2016 received in this regard reads that name of respondent Shammi Riyaz W/o Mohammad Younis Khan is existing as elector in the Electoral Roll in only one Polling Station i.e. Polling Station No. 118- Poonch (C) House No.89 S.No: 281 of 87 Poonch Haveli Assembly Constituency (Patwar Halqa Sher Khas). As such it confirms the claim of the respondent. Block Level Officer (BLO) of MS Kangra of Polling Station 88 has also reported that names of Shammi Rayaz W/o Mohd Younis along with her husband existing at Ser. No. 308 & 307 in electoral roll of PS 88 MS Kangra Galutha Constituency are deleted.
9. It is also to be mentioned that from the selection list of candidates for the post of Anganwari Worker for Anganwari Centre Qazi Mohra near peer Baba it has been found that out of 13 Candidates appellant herein exists at 10th place in merit whereas respondent.No.1 stands at Ser. 2, So in no way appellant can be said to be aggrieved of engagement / appointment of resp-1.

In view of the above facts and circumstances this court has come to conclusion that present petition has no legal ground and is thus dismissed.

Stay issued by this court shall stand vacated. The case file be consigned to records after due completion.


(Dr. Pawan Kotwal) IAS,
Divisional Commissioner,
Jammu

Announced
3-3-2017

No.:- 80/1271 - Dated: 6-03-2017

Copy of order dated 03-03-2017 along with record file containing 47 leaves in the case titled Kisan Charana vs Shammi Riyaz & or is forwarded to Deputy Commissioner Poonch for favour of information & further necessary action etc.

Reader to
Divisional Commissioner
JAMMU