

IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU

2013-14
Shafiqā Begum, Age 36 Years

W/o Mohd Munwar

R/o Lower Mahina, Dhāra Lonepura, Doda

.....Petitioner

V/S

1. State of J&K through Commissioner / Secretary, social Welfare Department, Civil Secretariat, Jammu
2. The Deputy Commissioner Doda.
3. The programme Officer, ICDS, Doda.
Smt. Jabina W/o Mohd Ramzan, R/o Dhara, Mohina, Doda. -----Respondent

In the matter of:-

Revision petition against the order dated 29-01-2014 passed by Ld. Deputy Commissioner, Doda in file no. 26/Appeal titled "Shafiqā begum Vs State of J&K & Ors." Where filed by the petitioner against the order of appointment of respondent no.4 has been by respondent no.2 and the selection/appointment of the respondent no.4 for the Anganwari Helper in Anganwari Centre, Mahina Monepura, ICDS Project, Doda kept intact. For setting aside the same.

Orders


The petition has been filed on the following grounds.

1. That the petitioner in response to advertisement notice No.1 of 2010 dated 25-06-2010 had applied and sought consideration for engagement as Anganwari Helper at Anganwari Centre, Lonepura.
2. That it is submitted that petitioner herein being handicapped and also belonging to BPL category further belonging to Hamlet Lonepura of Village Mohina (Dhara) as well as having qualified Middle Pass (8th standard) though was the only eligible candidate in terms of aforesaid advertisement notice which in terms of clause 4 reproduced above provides consideration of who belong to hamlet where Anganwari centre is situated, however the respondents/the authorities of social welfare Department contrary to terms and conditions of advertisement notice as well as the mandate of Government order No. 10 SW of 2010 dated 19-01-2010 have allowed selection/engagement/appointment of respondent no.4 belonging to an altogether different hamlet of Village Mohina (Dhara) i.e Hamlet-Ganaipura.
3. That being aggrieved of the selection/appointment of respondent no. 4, the petitioner herein has invoked the appellate jurisdiction of respondent no.2 in terms of Government order No. 7-SW of 2010 dated 18-01-2010 by filing appeal against appointment of respondent no.4 as Anganwari Helper in Anganwari centre, Mohina-Lonepura, ICDS project Doda.
4. That the Ld. Appellate authority/respondent no.2 apparently on misrepresentation about a taken place in Government order No. 7-SW of 2010 dated 18-01-2010 by virtue of Government order No. 10-SW of 2010 dated 19-01-2010 where the word "Revenue village" as existing in para 1(a) of said Government order dated 18-01-2010 has been replaced by word Hamlet" the respondent no.2 as such based him finding erroneously upon un-amended para 1(a) in the impugned order dated 29-01-2014. The whole village Mohina (Dhara) as a zone of consideration has rejected the appeal filed by the petitioner vide impugned order dated 29-01-2014 order dated 29-01-2014 in.

5. That the factum of the petitioner being the resident of hamlet Lonepura of Village Mohina(Dhara) and the respondent no.4 being the resident of Hamlet Ganipura of village Mohina(Dhara) is further evident from the copy of the report called by the respondent no.2 from Tehsildar Doda which through has been referred by the respondent No. 2 in the order impugned but not appreciated apparently in ignorance of eligibility criteria as per the Govt. Order dated 7-SW of 2010 read with Govt.
6. That the petitioner further submits that record of the authority below as and when called by this Hon'ble court would further substantiate the factum of deprivation of the right of petitioner at the instance of authorities of social welfare department and further non-consideration in as much as non-appreciation of the facts and law by the authority below. The petitioner accordingly prays for calling for the record of authority below for proper adjudication and determination of the rights of the parties.
7. That the petitioner further submits that though the petitioner has got the certified copy of the order through her husband from the office of the respondent no.2 on 03-02-2014 but since the petitioner is handicapped and otherwise belong to very poor family of village Lonepura Mohina (Dhara) of District Doda and because of financial constraints, handicappers as well as weather conditions, the petitioner was not able to come to the Jammu immediately, as such delay if any in filing the revision may kindly be condoned in the interest of justice.
8. The case came up for hearing. Counsel of both the parties person. They are heard. Counsel for petitioner pleaded the grounds taken in the memo of petitioner & further submitted that as per advertisement candidate from hamlet Mohina Lonepura was to be engaged & petitioner being the resident of Mohine Lonepura was eligible for the post of Anganwari Helper whereas selection has been made from Hamlet Mohalla Ganaipura of the same village. He prayed to set aside the order impugned.
On the other hand the counsel for respondent contended that the court below has passed order as per rules and hence the petition be dismissed.
9. The main contention of petitioner is that respondent No.4 is not the resident of Mohra Mohina Lonepura for which the post is advertised & that the respondents contrary to terms & conditions of advertisement notice as well as mandate of GO -10-SW of 2010 dated 19-1-2010 have allowed selection of respondent 4 and have considered village Mohina (Dhara) as a zone of consideration
10. However a report found in record file submitted to CDPO Doda with regard to residential status of respondent reads as under:-
 - a) Jabeena Begum belongs to BPL family but residing at a distance appx ½ Km from zero point.
 - b) Shafiq Begum belongs to BPL & residing at zero point.
 - c) A certificate issued by BDO Ghat Doda in favour of respondent 4 shows her resident of Mohara Mohine W.No.5 of Panchayat Dhare B.
11. I have heard the arguments of the parties and record examined from which it has been observed that BDO Concerned has issued Residential Certificate in favour of the respondent 4 and has been found to be resident of Mohra Mohina W.No.5.
12. Though petitioner has also taken plea of being handicap but in this context, it may be noted that there is no such provision prescribed in the rules.
13. In view of what has been discussed above, this Court has observed that both the candidates belong to the same hamlet and as such order passed is as per law and needs no interference.
14. Hence the present petition being devoid of merit is dismissed. A copy of this order along with record file be sent to Deputy Commissioner Doda for information.
Stay issued, if any, shall stand vacated. The case file be consigned to records after due completion.

Announced.

01-4-2017


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