



2025:CGHC:40029-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 595 of 2025

Jyoti Hirwani W/o Shri Khemraj Sahu Aged About 29 Years R/o Ward No. 10, Panchayat Bhatapara, Aamdi, Tehsil And District Dhamtari (Chhattisgarh) Present Address C/o Amiya Patnaik, Naktiguda, Bhawanipatna, District Kalahandi, Odisha

... Appellant

versus

- 1 - State Govt. of Chhattisgarh Through The Secretary, Panchayat And Rural Development Ministry, Mahanadi Bhawan, P.S. Rakhi, Atal Nagar, New Raipur, District Raipur, Chhattisgarh
- 2 - Commissioner Division Raipur Division, District Raipur, Chhattisgarh
- 3 - Chief Executive Officer Zila Panchayat Dhamtari, Atal Nagar, District Dhamtari, Chhattisgarh
- 4 - District Education Officer Dhamtari, District Dhamtari Chhattisgarh
- 5 - Block Education Officer Kurud, District Dhamtari Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Appellant	: Mr. Barun Kumar Chakrabarthy, Advocate
For Respondents-State	: Mr. Yashwant Singh Thakur, Additional Advocate General
For Respondent No.3	: Ms. Aishley Shrivastava, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Bibhu Datta Guru, Judge
Judgment on Board

Per Ramesh Sinha, Chief Justice

11.08.2025

- 1 I.A. No.01, an application for condonation of delay of 74 days has been filed by the appellant.
- 2 Considering the grounds mentioned in the application (I.A. No.01), the same is allowed. Delay of 74 days in filing the appeal is hereby condoned.
- 3 With the consent of learned counsel for the parties, the appeal is heard finally.
- 4 By way of this writ appeal, appellant has prayed for following relief(s):-

“It is, therefore, prayed that this Hon'ble Court may kindly be pleased to allow this writ appeal and quash/set-aside the impugned part of the order dated 17-03-2025 passed by Single Judge in WPS No. 943/2021 and order dated 08-04-2016 of respondent no. 2 may kindly be maintained and respondent may kindly be ordered reinstate the petitioner with all consequential benefits in the interest of justice.”

- 5 The present intra Court appeal has been filed against the order dated 17.03.2025 passed by the learned Single Judge in Writ Petition (S) No.943/2021 (*Smt. Jyoti Hirwani v. State of Chhattisgarh and others*), whereby the writ petition filed by the writ petitioner has been dismissed.
- 6 The brief facts of the case projected before the learned Single Judge were that respondent No. 3 had initiated proceedings for the appointment of a Lecturer in the pay scale of Rs. 5300-1500-8300 along with all admissible DA. The appellant/writ petitioner was a wait-listed candidate and was appointed on 09.04.2015 as Lecturer in Government Higher Secondary School, Siloti, in Block Kurud, District Dhamtari. Subsequently, it was brought to the notice of respondent No. 3 that the appellant/writ petitioner did not possess a B.Ed degree. Therefore, his appointment order was cancelled on 13.04.2015 by the Chief Executive Officer, District Dhamtari.
- 7 It was also the case of the appellant/writ petitioner that the termination order was not communicated to him, and as such, he worked there for more than six months thereafter. The appellant/writ petitioner then filed WP(S) No. 4613 of 2015, wherein, vide order dated 04.12.2015, the Coordinate Bench directed the appellant/writ petitioner to file an appeal before the Divisional Commissioner (Revenue) within 30 days. In pursuance of the said order, the appellant/writ petitioner preferred an appeal

before the Divisional Commissioner, Revenue, Raipur, which was registered as Case No. 55-A/89 for the year 2015-16.

- 8** The Divisional Commissioner, Revenue, Raipur, had allowed the appeal vide order dated 08.04.2016 and set aside the order dated 13.04.2015. Being aggrieved by the said order, the Chief Executive Officer, Dhamtari, preferred a revision before the Secretary, Department of Panchayat and Rural Development, vide Case No. 441/Nyay.Pancha/2016-17. The Secretary had allowed the revision filed by the CEO, set aside the order dated 08.04.2016 passed by the Additional Commissioner, Raipur Division, Raipur, and also directed that disciplinary action be taken against the officer who had initiated the procedure for the appointment of non-B.Ed candidates.
- 9** Being aggrieved with the inaction on the part of the authorities, the appellant/writ petitioner has filed a writ petition bearing Writ Petition (S) No.943/2021 before the learned Single Judge, which was dismissed vide order dated 17.03.2025.
- 10** Challenging the aforesaid order dated 17.03.2025 passed by the learned Single Judge in writ petition, the instant appeal has been filed by the appellant/writ petitioner.
- 11** Learned counsel for the appellant/writ petitioner submits that the impugned order is illegal and bad in the eyes of law. He further submits that Selection Committee had selected the petitioner

purely on the basis of merit. Respondent Nos. 1 and 3 were not the Appellate Authorities over the Selection Committee, and therefore, they could not have set aside the petitioner's appointment without issuing any charge sheet or following the due procedure of law. It was further submitted that para 9 of the impugned order itself records that, after the issuance of the appointment order dated 09.04.2015 as Lecturer, the petitioner had worked for more than six months. Therefore, the payment made to her was held to be proper, and the recovery order of Rs.96,632/- was quashed by the learned Single Bench. Learned counsel further relied on the judgment in **WPS No. 984/2018, Rohini Jha & Anr. v. State of C.G. & Anr.**, wherein, in para 7, the Hon'ble Court held that an employee of the Panchayat Department cannot be dismissed from service on the allegation of misconduct without holding a departmental enquiry in accordance with Rule 7 of the Rules of 1999. It was also contended that the Court had directed that disciplinary action be taken against the officers involved in such illegal actions contrary to the provisions of law. However, instead of taking action against respondent Nos. 1 and 3, the learned Single Judge has overlooked and disregarded the order dated 20.04.2018 of the Court, which amounts to serious illegality. In view of the above, it was prayed that the impugned order of the learned Single Judge be quashed, and the termination order of the petitioner be set aside.

- 12** On the other hand, learned counsel appearing for the respondents opposed the submissions advanced by learned counsel for the appellant and jointly submitted that after considering all the aspects of the matter, the learned Single Judge has rightly passed impugned order dated 17.03.2025, which does not call for any interference by this Court.
- 13** We have heard learned counsel for the parties and perused the impugned order as well as materials available on record.
- 14** After appreciating the submissions of learned counsel for the parties as also the materials on record, the learned Single Judge has passed the impugned order in following terms:-

“8. From the record it is quite vivid that the petitioner was not having B Ed degree. It is not in dispute that about 35 candidates are available in the wait list who were more qualifying candidates than the petitioner. It is also not in dispute that under Right to Education Act for imparting education candidate should have B Ed degree or diploma in education which is statutory requirement in the Rules also now a days, as such there is no justifiable reason for the respondents to consider the case of the petitioner to bypass the entire criteria for imparting education. Even otherwise, this Court cannot lose sight of the fact that for upgradatng of young children more qualifying teacher is required to strengthen the

academic standard of the students, therefore, there is no justifiable reason for consideration of the petitioner's appointment on the post of lecturer. Considering the fact that the orders passed by the Secretary Department of Panchayat and Rural Development as well as Chief Executive Officer are not suffers from perversity or illegality which warrants interference by this Court. Even otherwise the petitioner is unable to point out any illegality in the decision making process.

9. Further considering the fact that the appointment order was issued to the petitioner on 09.04.2015 and he worked there more than 6 months and no material was placed on record by the respondent regarding communication of the impugned order which has compelled the petitioner to discharge his duty for the said period, I am of the view that so far as order of recovery dated 31.12.2015 to the tune of Rs. 96,632/- deserves to be quashedm and it is quashed.

10. Accordingly, the petitioner is entitled to retain the salary which he has already been given while discharging as Lecturer and no recovery to the tune of Rs. 96,632/- is required to be made from the petitioner.

11. Accordingly, the writ petition is allowed in part. No order as to the cost."

15 Having considered the matter in its entirety, perused the materials placed on record, and after hearing learned counsel for the parties

at length, we are satisfied that the learned Single Judge has dealt with all relevant aspects of the case and has assigned cogent and convincing reasons in support of the conclusions reached. The finding that the appellant/writ petitioner was ineligible for appointment to the post of Lecturer, owing to the absence of a B.Ed. degree, is in consonance with the statutory requirements prescribed under the Right to Education Act and the relevant service rules. The learned Single Judge has also correctly observed that there were several more meritorious and qualified candidates available in the wait list, and no justifiable ground was made out for bypassing the prescribed eligibility criteria.

- 16** We further find that the learned Single Judge has shown due consideration to the fact that the appellant/writ petitioner had discharged duties for over six months without any communication of the termination order and, therefore, rightly quashed the recovery of Rs. 96,632/-, allowing the appellant/writ petitioner to retain the salary already paid. This aspect demonstrates that the learned Single Judge balanced the equities between the parties while upholding the legality of the administrative action.
- 17** In the absence of any perversity, arbitrariness, or illegality in the decision-making process, and in view of the detailed reasons recorded by the learned Single Judge, we do not find any ground to interfere with the impugned order in exercise of our appellate jurisdiction under Article 226 of the Constitution of India.

- 18** Accordingly, the writ appeal stands dismissed as being devoid of merit. There shall be no order as to costs.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu