

**IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE RAVI MALIMATH,**

**CHIEF JUSTICE**

**&**

**HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV**

**ON THE 22<sup>nd</sup> OF MARCH, 2022**

**WRIT APPEAL No.1130 of 2018**

**Between:-**

**SMT. RAJKALI SAKET W/O SHRI DILIP  
KUMAR SAKET, AGED ABOUT 43 YEARS,  
UNEMPLOYED, R/O NEAR NEW  
AGRAWAL HARDWARE SHOP, GALLA  
MANDI ROAD, AMAHIYA DISTRICT REWA  
(M.P.)**

**.....APPELLANT**

***(BY SHRI K.C.GHILDIYAL – SENIOR ADVOCATE WITH SHRI  
ADITYA VEER SINGH - ADVOCATE)***

**AND**

- 1. STATE OF MADHYA PRADESH, THROUGH  
THE PRINCIPAL SECRETARY, AYUSH  
DEPARTMENT, VALLABH BHAWAN,  
BHOPAL (M.P.).**
- 2. THE COMMISSIONER, AYUSH  
DEPARTMENT MADHYA PRADESH,  
BHOPAL (M.P.).**
- 3. THE DIVISIONAL OFFICER, AYUSH  
DEPARTMENT REWA DISTRICT REWA  
(M.P.).**
- 4. COLLECTOR DISTRICT SIDHI, SIDHI  
(M.P.)**

5. DISTRICT AYUSH OFFICER, SIDHI,  
DISTRICT SIDHI (M.P.).
6. COLLECTOR SINGRAULI, DISTRICT  
SINGRAULI (M.P.).
7. DISTRICT AYUSH OFFICER, SINGRAULI,  
DISTRICT SINGRAULI (M.P.).
8. MANJU RAIDAS D/O SHRI JAI SHANKAR  
RAIDAS, AYURVEDIC MAHILA SWASTH  
KARYAKARTA, POSTED AT  
GOVERNMENT AHYUSH  
AUSHADHALAYA, PATHROULA,  
DISTRICT SIDHI (M.P.).

....RESPONDENTS

*(BY SHRI B.D.SINGH – GOVERNMENT ADVOCATE)*

AND

**WRIT APPEAL No.1118 of 2018**

**Between:-**

**RAVI KUMAR KORI S/O SHRI SUKHLAL  
KORI, AGED ABOUT YEARS,  
UNEMPLOYED R/O SAMAN KORIYAN  
MOHALLA BAN SAGAR, WARD NO.13,  
REWA, DISTRICT REWA (M.P.).**

.....APPELLANT

*(BY SHRI K.C.GHILDIYAL – SENIOR ADVOCATE WITH SHRI  
ADITYA VEER SINGH - ADVOCATE)*

AND

1. STATE OF MADHYA PRADESH, THROUGH  
THE PRINCIPAL SECRETARY, AYUSH  
DEPARTMENT, VALLABH BHAWAN,  
BHOPAL (M.P.).

2. THE COMMISSIONER, AYUSH  
DEPARTMENT MADHYA PRADESH,  
BHOPAL (M.P.).
3. THE DIVISIONAL OFFICER, AYUSH  
DEPARTMENT REWA DISTRICT REWA  
(M.P.).
4. COLLECTOR DISTRICT SIDHI, SIDHI  
(M.P.)
5. DISTRICT AYUSH OFFICER, SIDHI,  
DISTRICT SIDHI (M.P.).
6. COLLECTOR SINGRAULI, DISTRICT  
SINGRAULI (M.P.).
7. SMT. RAMKALI SAKE W/O SHRI  
RAMKUSH SAKET R/O VILLAGE AND  
POST KUKADIGHAR, SIDHI DISTRICT  
SIDHI (M.P.).
8. RAVI KUMAR KORI S/O SHRI SUKHLAL  
KORI R/O SUMAN KORIYAN MOHALLA  
BAN SAGAR WARD No.13,REWA DISTRICT  
REWA (M.P.)

....RESPONDENTS

(BY SHRI B.D.SINGH – GOVERNMENT ADVOCATE)

-----  
*This appeal coming on for admission this day, Hon'ble Shri  
Justice Purushaindra Kumar Kaurav, passed the following:*

**ORDER**

Since both these appeals have arisen from common order dated 12.7.2019 passed by the learned Single Judge in W.P.No.16456-2012 and W.P.No.15240-2013, therefore, the same are being heard analogously and

for the sake of convenience the facts are taken from W.P.No.16456-2012 for consideration.

2. The facts of the case are that the respondent-State issued an advertisement on 23.06.2010 (Annexure P-4) inviting applications for filling-up the post of Women Ayurvedic Health Worker and Aushdhalaya Sevak in different districts of the State. According to the appellant in district Sidhi two posts of Women Ayurvedic Health Worker and one post of Aushdhalaya Sevak were vacant. Appellant applied for the said post. She was invited for interview with all other eligible candidates. Thereafter, selection list was prepared by the District Selection Committee on 31.10.2011 (Annexure P-6). The name of appellant finds place in the said select list for the post of Women Ayurvedic Health Worker as also for Aushdhalaya Sevak. Thereafter, police verification was conducted. On 04.05.2012 (Annexure P-8), the Collector, Sidhi requested the Superintendent-cum- District Ayurvedic Officer, Sidhi for issuing the appointment order to the appellant. On 25.08.2012 (Annexure P-9), the select list for Women Ayurvedic Health Worker/ Aushdhalaya Sevak was approved by the Commissioner, Directorate Ayush Madhya Pradesh, Bhopal. However, before the appointment order could be issued, the candidature of the appellant was rejected on the ground that on the date of advertisement i.e 23.06.2010, only one post of Women Ayurvedic Worker was available which was reserved for Schedule Caste candidate and no post was available for Aushdhalaya Sevak in Schedule Caste category and, therefore, the advertisement dated 23.06.2010 itself was incorrect against the availability of posts in question. Vide order dated 30.08.2012 (Annexure P-10), an appointment order for other candidate was issued but the appellant was not appointed. The appellant challenged the appointment order dated

30.08.2012 and order dated 25.08.2012 with a prayer for a direction to respondent No.5 to issue the appointment order in favour of the appellant pursuant to the selection. The learned writ court did not find any substance in the submission made by the appellant and dismissed the petition holding that mere selection does not give an indefeasible right to the candidate for getting appointment. Hence, the appellant has filed the instant writ appeal.

3. Learned counsel for the appellant by placing reliance on the decision of Hon'ble Supreme Court in the matter of *P.Mahendran and others Vs. State of Karnataka and others*<sup>1</sup> contends that the reason for denial of appointment to the appellant is unsustainable as the roster for the post in question has been revised on account of formation of new district Singrauli while bifurcating district Sidhi into two different districts. He, therefore, submits that on account of the selection process being undertaken, the rights are accrued in favour of the appellant which cannot be taken away on account of formation of new districts.

4. It is not in dispute that district Singrauli has been given status of district on 24.05.2008 and earlier a part of new district Singrauli was falling within the area of district Sidhi. It is also not in dispute that the revival of the roster after formation of the new district is illegal in any manner whatsoever. Under such circumstances, the fact is not disputed that the posts which were allotted to district Singrauli could not have been advertised and published by district Sidhi. So far as the posts available with district Sidhi are concerned, the same have been filled as per the advertisement. In absence of any allegation of malafide or ignorance of merit of the appellant, it cannot be said that the action of the respondents in not appointing the appellant is illegal. There cannot be any appointment

---

<sup>1</sup> (1990) 1 SCC 411.

unless there exists clear vacant post. Since on the date of advertisement, no posts were available for which inadvertently district Sidhi has proceeded for appointment, therefore, merely the name of the appellant finds place in the select list, no *mandamus* can be issued to direct the respondents to issue appointment order.

5. It is well established that unless an order of appointment is issued, no vested rights are conferred on the candidate simply because his or her name appears in the select list. The Hon'ble Supreme Court in the case of *State of Haryana Vs. Subhash Chander Marwaha and others*<sup>2</sup> has held that the mere fact that the candidate's name appears in the list recommended by the Commission does not entitle him that he should be appointed.

6. So far as the decision relied upon by the appellant is concerned, the same relates to amendment of rules with retrospective effect taking away the right of the candidate who were already selected. In the instant case, same is not the situation. The present case relates to non-availability of the posts on the date of advertisement and before any appointment order could be issued, it was realized that the advertisement includes posts as were available before bifurcation of the district and, therefore, the respondents did not proceed to issue the order of appointment

7. In view of the aforesaid, we do not find any substance in the submission of learned counsel for the appellant, hence the instant writ appeals are dismissed.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

---

<sup>2</sup> AIR 1973 SC 2216.

MKL.