

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

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 16th OF JUNE, 2025

WRIT PETITION NO.9396/2025

SMT. ABHILASHA AHIRWAR

VS.

THE STATE OF MADHYA PRADESH & OTHERS

Appearance:

Petitioner by Shri Mahendra Pateriya – Advocate.

**Respondents No.1 to 4 by Shri D.R. Vishwakarma – Government
Advocate.**

Respondent No.5 by Shri Sanjay Sarwate - Advocate.

Reserved on: 16.04.2025

Pronounced on: 16.06.2025

ORDER

The learned counsel for the rival parties were heard on 16.04.2025 and today the order is being pronounced.

2. By the instant petition filed under Article 226 of the Constitution of India, the petitioner is challenging the order dated 27.02.2025 (Annexure-P/7) passed by respondent No.2 and also challenging the order dated 03.03.2025 (Annexure-P/8) whereby respondent No.5 has been appointed on the post of Anganwadi Worker of Centre Gram Panchayat Patkui, Tehsil and District Sagar.

3. As per the facts of the case,, Gram Panchayat Patkui, Tehsil and District Sagar floated an advertisement inviting applications for the post of Anganwadi Worker and in response thereto, the applications were submitted by various candidates including the petitioner and respondent No.5. A provisional select-list was prepared in which respondent No.5 was placed at serial No.1 granting her 10 marks as bonus marks available for female candidate like widow, divorcee, deserted wife and unmarried lady more than 30 years of age and as such she secured 58.78 marks whereas at serial No.2 Smt. Bharti Rohit was placed, who secured 58.60 marks and at serial No.3 Smt. Abhilasha (present petitioner) has been placed showing 57.40 marks. The petitioner aggrieved with the said selection of respondent No.5 filed an objection that respondent No.5 is a married lady and was not entitled for 10 marks because it has been granted to her probably on the ground that she was aged about 34 years and was an unmarried lady and in the policy it is provided that an unmarried lady, more than 30 years of age, is entitled to get 10 marks. On the objection of the petitioner, a final list was prepared that is dated 07.07.2023 (Annexure-P/3) in which the petitioner has been placed at serial No.2 and Smt Bharti Rohit was placed at serial No.1. In the said list respondent No.5 has been placed at serial No.8 in the merit list showing total marks 48.78. Smt. Bharti Rohit was appointed on the basis of merit-list but on 27.06.2024 but she submitted a resignation, which was accepted and an order in that regard has been issued on 01.07.2024. However, the merit-list dated 07.07.2023 was challenged by respondent No.5 before the Collector by filing an appeal and that appeal was dismissed by the Collector vide order dated 23.07.2024. In the meantime, on 29.07.2024 (Annexure-P/6) an order of appointment was issued in favour of the petitioner but

against the order rejecting the appeal by the Collector on 23.07.2024, respondent No.5 preferred an appeal before the Commissioner, Sagar (respondent No.2) and that appeal has been decided by respondent No.2 vide order dated 27.02.2025 holding that respondent No.5 was entitled to get 10 marks treating her to be a deserted wife, the appeal was allowed and order dated 07.07.2023 whereby final merit list was prepared in which respondent No.5 had been placed at serial No.8 was set aside and also the order dated 29.07.2024 was set aside whereby the petitioner was appointed. The Commissioner has observed that respondent No.5 was entitled to get 10 marks of deserted wife and as such she secured 58.78 marks. Therefore, she has to be placed at serial No.1 and appointment be made in her favour. Thereafter, the order dated 03.03.2025 has been issued vide Annexure-P/8 giving appointment to respondent No.5 on the post of Anganwadi Worker and that has given cause to filing of this petition to the petitioner challenging the order of appointment of respondent No.5 and also the order passed by the Commissioner.

4. The challenge is made on the ground that respondent No.5 has played fraud with the authorities and in her application form she had shown herself to be an unmarried lady aged about 34 years for the reason that the policy provides that unmarried girl more than 30 years of age, is entitled to get 10 marks. But she was a married lady and therefore objection was raised by one of the candidates about the said selection. Respondent No.5 filed an appeal before the Collector claiming that she should be given 10 bonus marks as she was a deserted wife because after receiving an objection 10 marks were deducted from the total marks given to her. Though the Collector dismissed the appeal, but

the Commissioner in its order observe that respondent No.5 is a deserted lady and is entitled to get 10 marks.

5. The orders passed by the authorities have been supported by respondent No.5 by filing a reply and looking to the order passed by the Collector and observation made therein and the other circumstances, in the opinion of the court, the selection made on the post of Anganwadi Worker in the center Patkui, was found to be illegal and full of illegality and therefore the State was directed to produce the record of selection.

6. Considering the submissions made by the learner counsel for the parties and perusal of the record of selection and taking note of the application form submitted by respondent No.5, it is clear that respondent No.5 has shown herself to be an unmarried woman, aged about 34 years in the application. An objection with regard to her status has also been raised by Ku. Sanjana informing the District Project Officer that respondent No.5 is a married lady and the provisional merit list i.e. available on record issued on 12.06.2023 respondent No.5 has been placed at serial No.1 showing total marks 58.78 and 10 marks were granted to her in the column available for widow/deserted/divorcee /unmarried girl aged more than 30 years. From the application form of respondent No.5 even from the voter list, it is seen that the name of respondent No.5 is shown as Rani Shilpi, daughter of Bhagirath. Although respondent No.5 claimed before the Collector by filing an appeal challenging the appointment of Bharti Rohit that she is entitled to get 10 marks as she is a deserted wife.

7. Astoundingly, the Collector in his order very clearly observed that nothing is available on record to indicate that respondent No.5 was a married lady or deserted wife, despite that, approved the

awarding of 10 marks to her, but dismissed the appeal. After the resignation submitted by Smt. Bharti Rohit, as per the order-sheets since the petitioner was at serial No.2 and therefore it is written in the order-sheet that an appointment order be issued to the petitioner. Thereafter, an order of appointment of the petitioner was issued on 29.06.2024. But in an appeal preferred before the Commissioner, the Commissioner set aside the order of Collector and also the order of appointment of the petitioner as well as final select list dated 07.07.2023 in which respondent No.5 had been placed at serial No.8.

8. Albeit, the underlying facts are very complex, but from perusal of record, it is clear that respondent No.5 claimed herself to be an unmarried girl and nowhere she has shown the name of her husband and even in the voter list the name of husband was not there. The objection was raised about illegal allocation of 10 marks in favour of respondent No.5 before the Selection Committee and it was considered that respondent No.5 was a deserted lady. In my opinion, such selection is nothing but a fraud played by the selection committee so as to grant 10 marks to respondent No.5 and the order of Commissioner is also apparently illegal because the Collector in its order had clearly observed that there was no document available on record about her desertion and therefore the claim of respondent No.5 for awarding her 10 marks has been denied by the Collector. It can be seen that in the application form of respondent No.5 she has deliberately not disclosed herself to be a married lady but posed herself to be an unmarried girl aged about 34 years so as to get 10 marks which were available for an unmarried girl of more than 30 years of age. But, as soon as an objection raised before the authority about her status that she was a married lady and false information was conveyed to the authority and also in the application,

then she immediately took a somersault posing herself to be a deserted wife and the Commissioner without considering this aspect allowed her appeal saying that she was a deserted wife and quoted provision which is not available or defined in any Adhiniyam which has been referred in the order nor is it prevailing in the country. I am surprised as to how the authority like Commissioner can give such a finding and favour the candidate without considering the fact that application form of respondent No.5 was filled showing herself to be an unmarried girl, then as to how she could be held entitled to get 10 marks for deserted wife. To support the stand of respondent No.5, a copy of FIR dated 05.01.2023 has been filed saying that respondent No.5 has lodged a report against her husband. As per the contents of FIR, she herself has disclosed that her marriage got solemnized on 12.07.2021 as per Hindu rites with Shri Raj Kumar Silawat and mentioned therein that her husband has deserted her because of demand of dowry. This Court is not inclined to examine the correctness of said document i.e. FIR available on record as Annexure-R/5(1) filed by respondent No.5 but it is apparent that respondent No.5 has played a fraud and the authorities have also colluded with her for granting 10 marks because the application contained that she was an unmarried girl and according to the document and admission of respondent No.5 herself she was a married lady. Even otherwise, the entitlement of the candidate and granting bonus marks on the basis of information conveyed to the authorities in the application can be the foundation but respondent No.5 was unnecessarily favoured and got selected giving additional 10 marks for which she was not entitled. Conversely, her candidature had to be rejected because she had conveyed incorrect and false information to the authorities. On earlier occasion also this Court in one of the petitions i.e. **W.P.No.11830/2018**

(Varsha Ahirwar v. State of M.P. & Others) has clearly laid down that if a candidate plays fraud and secures appointment, she is not entitled to be appointed and that appointment if any is made in favour of the candidate who played fraud to secure appointment, has to be cancelled. Thus, in the present case also this Court is of the opinion that the appointment of respondent No.5 deserves to be cancelled.

9. Accordingly, the petition is allowed. The impugned orders dated 27.02.2025 and 03.03.2025 are hereby set aside and the order of appointment issued in favour of the petitioner on 29.07.2024 (Annexure-P/6) is restored.

10. The original record of selection be returned to learned Government Advocate for its onward transmission to the concerned department.

(SANJAY DWIVEDI)
JUDGE