



A.F.R.

ORISSA HIGH COURT : CUTTACK

WP(C) No.15109 of 2025

An application under Articles 226 & 227 of the Constitution of
India.

* * *

Jamuna Hial

.....

Petitioner

-VERSUS-

State of Orissa & Others

.....

Opposite Parties

Counsel appeared for the parties:

For the Petitioner : Mr. S.K.Dalai, Advocate

For the Opposite Parties : Mr. M.K.Chand, Advocate
(for the O.P. No.5)
Mr.Gyanaloka Mohanty, S.C.
(for the State)

P R E S E N T:

**HONOURABLE
MR. JUSTICE ANANDA CHANDRA BEHERA**

Date of Hearing: 02.02.2026 :: Date of Judgment : 26.02.2026

JUDGMENT



ANANDA CHANDRA BEHERA, J.—

1. This writ petition under Articles 226 and 227 of the Constitution of India, 1950 has been filed by the Petitioner praying for quashing the impugned order dated 22.05.2025 (Annexure-5) passed by the Additional District Magistrate, Nuapada (O.P. No.3) in AWW Appeal Case No.02 of 2024 and to declare the selection of the Petitioner as Anganwadi Worker of Kandulkona Anganwadi Centre as valid and to restrain the Opposite Parties from interfering with the functioning of the Petitioner as Anganwadi Worker of Kandulkona Anganwadi Centre and to pass such other order(s) as it deems just and proper, to which, she (Petitioner) is entitled for.

2. The factual backgrounds of this writ petition, which prompted the Petitioner for filing of the same is that, as per the guidelines/circular dated 15.03.2023 (Annexure-1) of the Government of Odisha, Department of Women and Child Development, an advertisement was published on dated 12.01.2024 vide Annexure-2 inviting applications for the selection of an Anganwadi Worker of Kandulkona-1 Anganwadi Centre under Sinapali ICDS Project in the District of Nuapada



and on the basis of such advertisement, the Petitioner, O.P. No.5 along with others applied submitting their applications for the same with required documents and the Petitioner was selected as Anganwadi Worker of Kandulkona Anganwadi Centre by the selecting authorities.

To which, the O.P. No.5 of this writ petition challenged before the Chairman-cum-Sub Collector, Nuapada alleging allegations against her (Petitioner in this writ petition) is that, the Petitioner belong to Scheduled Caste Community and she has passed (+2) CHSE examination from Bihar Board of Open Schooling and Examination, Patna in the year 2019, which is not equivalent to CHSE, Odisha Examination.

As, the O.P. No.5 in this writ petition belong to Scheduled Tribe community and her house is within the service area of the Kandulkona-1 Anganwadi Centre, then, the selection of the Petitioner as Anganwadi Worker of Kandulkona-1 Anganwadi Centre is against the guidelines of the Government and that apart, she (O.P. No.5) has secured more marks than the Petitioner. For which, the selection of the Petitioner as Anganwadi Worker of Kandulkona-1 Anganwadi Centre has been made



violating the guidelines/circular dated 15.03.2023 (Annexure-1) of the Government of Odisha, Department of Women and Child Development.

Therefore, the selection of the Petitioner as Anganwadi Worker of Kandulkona-1 Anganwadi Centre is liable to be set aside.

After hearing from both the sides, the Chairman-cum-Sub Collector, Nuapada without giving any importance to the aforesaid allegations of the O.P. No.5 in this writ petition, made the selection of the Petitioner as Anganwadi Worker of Kandulkona-1 Anganwadi Centre proper as per order dated 19.07.2024 (Annexur-3) and on the basis of the said order dated 19.07.2024, the Petitioner was appointed as Anganwadi Worker of Kandulkona-1 Anganwadi Centre.

3. On being aggrieved with the said order dated 19.07.2024 (Annexure-3) passed by the Chairman-cum-Sub Collector, Nuapada rejecting the objection of the O.P. No.5 in this writ petition, the O.P. No.5 in this writ petition challenged the same preferring an appeal vide Anganwadi Appeal Case No.02 of 2024



before the Appellate Authority-cum-Additional District Magistrate, Nuapada (O.P. No.3) being the Appellant against the Petitioner of this writ petition arraying her as Respondent No.3 along with others as other Respondents.

4. After hearing from both the sides, the Appellate Authority-cum-Additional District Magistrate, Nuapada allowed that Anganwadi Appeal Case No.02 of 2024 of the Appellant (O.P. No.5 in this writ petition) as per order dated 22.05.2025 vide Annexure-5 and set aside to the selection of the Petitioner in this writ petition as Anganwadi Worker of Kandulkona-1 Anganwadi Centre of Sinapali ICDS Project passed by the Chairman-cum-Sub Collector, Nuapada and directed the Child Development Project Officer, Sinapali (O.P. No.4) and the Selection Committee to reconsider the selection of Anganwadi Worker of Kandulkona-1 Anganwadi Centre again in conformity with the provisions of Government guidelines in the MADA area assigning the reasons that,

“The revised guidelines dated 15.03.2023 (Annexure-1) of the Government of Odisha, Department of Women and Child Development was published in supersession of all previous guidelines/orders clarifying that, if the advertisement for



selection of Anganwadi Workers/Mini Workers/ Anganwadi Helpers has not been done, the selection will be done as per the said revised guidelines and the same will come to force with immediate effect.

The Para No.3(d) of the said guidelines provides that, “in the scheduled areas, only ST candidates will be selected as Anganwadi Worker from the area served by the AWC (Anganwadi Centre). In case, no suitable ST candidate is available in the area served by the AWC, then, a suitable ST Candidate may be selected from the same village, but, outside the service area of the AWC. If, no ST candidate is available within the same village, then, the candidates from adjacent village within the G.P. area may be considered for selection of Anganwadi Workers. If, in none of the cases, a suitable ST candidate is available, then, it may be made open to SC candidates, as indicated therein.

Para No.3(d) of the said guidelines has been modified and communicated vide letter dated 28.08.2024 of Government in Department of W & CD, Odisha which stipulates that, “in the scheduled areas as well as MADA (Modified Area Development Approach) areas, only ST candidates will be selected as Anganwadi Workers from area served by the AWC. In case, no suitable ST candidate is available in the area served by the AWC, then, a suitable ST candidate may be selected from the same village, but, outside the service area of the AWC. If, no ST candidate is available within the same village also, then, the candidates from adjacent villages within the G.P. area may be considered for selection of Anganwadi Workers. If none of the cases, a suitable ST candidate is available, then it may be made open to SC candidates indicated therein”.



As per the letter No.19183/HTW, Bhubaneswar dated 25th June, 1986 “Kandulkona” village of Kendumunda G.P. under Sinapali Block in the District of Kalahandi (now in the newly created Nuapda District) comes under the list of villages identified under MADA area (Modified Area Development Approach).

In view of the above findings, it is revealed that, the selection committee overlooked the provision stipulated in Para No.3(d) of the guidelines dated 15.03.2023 (Annexure-1) of Government in Department of W & CD, Odisha, that, if no ST candidate is available, then, the center will be open for SC candidate. Ignorance of law and provision of Government cannot absolve the selection committee from responsibility for implementation of the Government plan, programme and scheme.

The Village Kandulkona has been included in MADA area vide letter No.19183/HTW, Bhubaneswar dated 25th June, 1986 of Government in welfare department. Hence, Sarojinee Majhi being an ST candidate should have been given preference in selection of Anganwadi Worker for Kandulkona Anganwadi Centre.

Therefore, the selection of Anganwadi Worker of Kandulkona Anganwadi Centre of Sinapali ICDS Project is set aside. The Child Development Project Officer, Sinapali (O.P. No.4 in this writ petition) and the selection committee is directed to reconsider the selection of Anganwadi Worker of Kandulkona Anganwadi Centre again in conformity with the provision of Government guidelines for selection of Anganwadi Worker of MADA Area”.



5. On being dissatisfied with the said order dated 22.05.2025 (Annexure-5) passed in Anganwadi Appeal Case No.02 of 2024 by the Additional District Magistrate, Nuapada (O.P. No.3) in setting aside the selection of the Petitioner i.e. Jamuna Hial, as the Anganwadi Worker of Kandulkona Anganwadi Centre, She (Jamuna Hial, O.P. No.3 in Anganwadi Appeal Case No.02 of 2024) challenged the same preferring this writ petition being the Petitioner against the O.Ps arraying Sarojinee Majhi (Appellant in Anganwadi Appeal Case No.02 of 2024) as O.P. No.5 praying for quashing the impugned order dated 22.05.2025 (Annexure-5) passed in Anganwadi Appeal Case No.02 of 2024 by the Additional District Magistrate, Nuapada (O.P. No.3) and to declare the selection of the Petitioner as Anganwadi Worker of Kandulkona Anganwadi Centre as valid and to restrain the O.Ps from interfering with the functioning of the Petitioner as Anganwadi Worker of Kandulkona Anganwadi Centre along with other reliefs, to which, she (Petitioner) is entitled for on the ground that,

as per the advertisement, on the basis of the guidelines dated 02.05.2007 vide Annexure-6, she (Petitioner) was properly selected by the selecting



authority as a Anganwadi Worker of Kandulkona Anganwadi Centre. For which, the Para No.3(d) of the revised guidelines dated 15.03.2023 (Annexure-1) is not applicable to such selection process. As, the Petitioner had secured more marks than the O.P. No.5 coming under SC category, her selection as Anganwadi Worker of Kandulkona Anganwadi Centre was proper and she was selected properly by the selecting authority on the basis of the advertisement dated 12.01.2024 (Annexure-2).

Therefore, by applying the Para No.3(d) of the revised guidelines dated 15.03.2025 vide Annexure-1, her (Petitioner) appointment as Anganwadi Worker of Kandulkona-1 Anganwadi Centre should not have been set aside by the O.P. No.3 in Anganwadi Appeal Case No.02 of 2024. For which, the impugned order dated 22.05.2025 passed in Anganwadi Appeal Case No.02 of 2024 by the Additional District Magistrate, Nuapada (O.P. No.3) is liable to be quashed.

6. I have already heard from the learned counsel for Petitioner, the learned counsel for the O.P. No.5 and the learned Standing Counsel for the State.

7. During the course of arguments, the learned counsel for the Petitioner contended that, as she (Petitioner) had applied for



Anganwadi Worker of Kandulkona-1 Anganwadi Centre as per the advertisement dated 12.01.2024 (Annexure-2) and she (Petitioner) was selected on the basis of such advertisement, then, the guidelines dated 15.03.2023 (Annexure-1) cannot supersede or override the advertisement.

So, according to him (learned counsel for the Petitioner), advertisement dated 12.01.2024 (Annexure-2) shall prevail over the guidelines. When the selection of the Petitioner has been made on the basis of the advertisement dated 12.01.2024 (Annexure-2), the question of setting aside her selection applying the guidelines dated 15.03.2023 (Annexure-1) does not arise.

8. Now it will be seen, when there is a guideline/circular vide Annexure-1 for selection, then at this juncture, whether the said guideline will prevail or the advertisement will prevail.

9. It is the settled propositions of law that,

guidelines for selection of a post are substantive rules. The same determines, who will be eligible to be appointed and how the selection will be made. So, the guidelines are the legal foundation, from which, the recruitment process derives.

Guidelines for selection of post and guidelines for advertisement for selection, though, often use together, but, they serve different legal purposes and operate at



different stages of the recruitment process. The provisions mentioned in the rules/guidelines will prevail over the condition enumerated in the advertisement.

On this aspect, the propositions of law has already been clarified by the Apex Court in the ratio of the following decision:-

(i) In a case between ***The Employees' State Insurance Corporation Vrs. Union of India and others*** decided on 20.01.2022 reported in ***2022 Live Law (S.C.) 78*** that,

In the event of a conflict between a statement in an advertisement and service regulations, the latter shall prevail. An erroneous advertisement would not create a right in favour of applicants, who act on such representation. (Para No.20)

10. So, in view of the propositions of law enunciated in the ratio of the aforesaid decision of the Apex court, the guidelines dated 15.03.2023 (Annexure-1) of Government of Odisha Department of Women and Child Development for selection of Anganwadi Worker of Kandulkona Anganwadi Centre shall be strictly followed for the selection of a Anganwadi Worker, but, not the advertisement dated 12.01.2024 (Annexure-2) in respect of the same. Because, as per law, in case of conflict between guidelines for selection and advertisement for selection, the guidelines for selection shall be the basis for deciding the controversies between the Parties.



11. When, Kandulkona Anganwadi Centre is coming under the scheduled area and the said area has been declared as MADA Areas (Modified Area Development Approach), which is a smaller area of tribal concentration and when, the Para No.3(d) of the existing guidelines dated 15.03.2023 (Annexure-1) of the Government of Odisha, Department of Woman and Child Development, much prior to the advertisement dated 12.01.2024 (Annexure-2) provides the procedures for selection of Anganwadi Workers/Mini Workers/ Anganwadi Helpers and when, as per Para No.3(d) of Annexure-1 is clearly clarifying that, in the scheduled area like Kandulkona Anganwadi Centre, only a ST candidate will be selected as Anganwadi Worker from the area served by the AWC and in case of non-availability of ST candidate in the said area served by the AWC, then, a suitable ST candidate may be selected from the outside service area of AWC of the same village, in case, if, no ST candidate is available within the same village, then, the candidate from the adjacent villages within GP area may be considered for selection of Anganwadi Worker, but, if none of the cases, a suitable ST candidate is available, then, it



may be made open to the SC candidate indicated in Para No.3(e) of the guidelines.

12. Here in this matter at hand, undisputedly, the O.P. No.5 in this writ petition belong to ST candidate, whereas, the Petitioner in this writ petition belong to SC candidate and the house of O.P. No.5 is within the service area of Kandulkona Anganwadi Centre, for which, in view of the aforesaid Para No.3(d) of the guidelines dated 15.03.2023 (Annexure-1) of the Government, the Petitioner being a SC candidate should not have been selected as a Anganwadi Worker of Kandulkona Anganwadi Centre, when, the ST candidate i.e. the O.P. No.5 of the same service area of that AWC was available and that Kandulkona Anganwadi Centre is coming under MADA areas, as per the letter No.19183/HTW, Bhubaneswar dated 25th June, 1986.

For which, setting aside of the order of the Chairman-cum-Sub Collector, Nuapada passed on dated 19.07.2024 (Annexure-3) by the Additional District Magistrate in Anganwadi Appeal Case No.02 of 2024 through the impugned order dated 22.05.2025 (Annexure-5), cannot be held as erroneous.



Because, in the order dated 19.07.2024 (Annexure-3), the Chairman-cum-Sub Collector, Nuapada had failed to consider the circular/guidelines dated 15.03.2023 (Annexure-1), which was the force of law.

13. It is the settled propositions of law that, failure to consider a circular having the force of law is an error, which can be a ground to review the decision.

On this aspect, the propositions of law has already been clarified by the Apex Court in the ratio of the following decision:-

In a case between **Gulam Abbas and others Vrs. Mulla Abdul Kadar (dead) through his executors and others** reported in **1970 (3) SCC 643** that,

Failure to consider a circular having the force of law is an error, which can be a ground to review a decision.

14. As per the discussions and observations made above, when the impugned order dated 22.05.2025 (Annexure-5) passed by the Additional District Magistrate, Nuapada (O.P. No.3) in Anganwadi Appeal Case No.02 of 2024 is not erroneous, then at this juncture, the question of interfering with the same through this writ petition filed by the Petitioner does not arise.

15. Therefore, there is no merit in the writ petition filed by the Petitioner. The same must fail.



16. In result, the writ petition filed by the petitioner is dismissed on contest.

17. As such, the writ petition filed by the Petitioner is disposed of finally.

(ANANDA CHANDRA BEHERA)
JUDGE

High Court of Orissa, Cuttack
26.02.2026// Binayak Sahoo
Jr. Stenographer