

Sarita Devi Vs. State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Dec-02-2014

Appellant : Sarita Devi

Respondent : State of Jharkhand and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 1219 of 2010
Sarita Devi Petitioner Versus 1. The State of Jharkhand 2. The Dy. Commissioner,
Deoghar 3. The Dy. Development Commissioner, Deoghar 4. The District
Programme Officer, Deoghar 5. The Child Development Project Officer, Deoghar
Respondents ----- CORAM: HONBLE MR. JUSTICE SUJIT NARAYAN
PRASAD ----- For the Petitioner : Mr. Sudhansu Kumar Deo, Advocate For the
Respondents : J.C. to G.P. II ----- 06/Dated:

2. d December, 2014 The petitioner being aggrieved with the order dated 15.02.2010 passed by the Deputy Development Commissioner by which her selection as Aanganbari Sewika has been cancelled and also against the order dated 26.02.2010 by which the petitioner was asked to handover the records in favour of one Sahayika, has approached this Court. Brief facts as has been argued on behalf of the petitioner is that the petitioner was appointed as Sewika of Aanganbari Kendra, Guniasol-2, (Pujhartola), Deoghar, by Aamsabha. Accordingly she was issued provisional appointment letter on 24.08.2009. After being appointed as Aanganbari Sewika she started discharging her duties. The petitioners services as Aanganbari Sewika was cancelled by order passed in this

regard on 15.02.2010 by the Deputy Development Commissioner on the ground that the petitioner does not belong to that locality where the Aanganbari Centre is situated. In terms of the order dated 15.02.2010, the Child Development Project Officer has passed the order on 26.06.2010 directing the petitioner to handover records in favour of one Sahayika namely, Laxmi Devi. Counsel for the petitioner has submitted that the order dated 15.02.2010 has been passed by the authority i.e. the Deputy Development Commissioner who has got no power to do so in view of the Government guidelines dated 02.06.2006 issued by the Social Welfare Women and Child Development Department, Government of -2- Jharkhand. It is further submitted that the petitioner had not been heard prior to the issuance of order dated 15.02.2010. On the other hand learned counsel for the respondent authorities who had been directed vide order dated 07.11.2014 for filing counter affidavit, submitted that in spite of communication having been given to the concerned authorities with regard to the order passed by this Court, no response has been given. Hence the case is being decided without any counter affidavit. However, the counsel for the respondents has not disputed the procedural aspect to the effect that the Deputy Development Commissioner has got no power to cancel the selection of Aanganbari Sewika. Heard the parties. The order dated 15.02.2010 has been issued by the Deputy Development Commissioner, Deoghar. After going through the Government guidelines, which has been formulated by the Social Welfare Women and Child Development Department, government of Jharkhand, for the purpose of governing the service condition of Aanganbari Sewika and Sahayika as also procedure to cancel the selection, it is apparent that as per the condition mentioned in clause 16, the Child Development Project Officer is competent authority to cancel the selection of Aanganbari Sewika with prior approval of the Deputy Development Commissioner. Thus, in my view, the aforesaid guidelines as contained in clause 16, the Deputy Development Commissioner has got no power to cancel the services of the Sewika/Sahayika of Aanganbari. In this regard, the judgment of Division Bench of this Court reported in the case of Kanchan Devi and others Vs. State of Jharkhand and Others, 2014 (4)JLJR2at para-7 is quoted herein below:

7. Having heard learned counsel for the parties and on going through the record, it is not disputed that by Circular dated 2.6.2006 issued by the Ministry of Social

welfare, Woman and Child Development Department, Government of Jharkhand, wherein guidelines for -3- selecting Aanganbari Sevika has been laid down, whereby it has been prescribed that the Aanganbari Sevika must be a permanent resident of the said village in which Aanganbari Kendra is situated and if the Aanganbari Kendra is situated in a village situated in the neighbourhood (Tola) then the appointee should be the resident of the said Tola or neighbourhood so that she can be available amidst the beneficiaries. The residential certificate dated 9.1.2007 has been issued by the office of the Circle Officer, Itkhori, in which, it has been mentioned that the respondent is a resident of village-Lambodih and reference has also been made to the record of rights. The Mukhiya of the Village has also issued certificate, as per Annexure-5, wherein it has been mentioned that the respondent No. 8 is residing along with her husband, Binod Yadav and family for the past 15 to 20 years. It is not disputed that the Village Lambodih, Prithvipur and Madhavpur are the Poshak Chhetra (Feeder Area) for the Aanganbari Kendra at Madhavpur. The respondent No. 8 was selected by the Aam Sabha dated 18.1.2007 in the presence of the Child Development Programme Officer (C.D.P.O.), Itkhori and other members and the Resolution of the said meeting has also been signed by the scores of person of the village. It is evident that the respondent No. 8 along with five others had filed an application for appointment as Aanganbari Sevika and after scrutinizing the documents, the respondent No. 8 was provisionally selected and a provisional selection letter dated 18.1.2007 was issued to her under the signature of the then Child Development Programme Officer (C.D.P.O.), Itkhori and thereafter an appointment letter dated 13.6.2008 was issued to her. Admittedly, she has been working as Aanganbari Sevika since 2007. It is noticed that between the issuance of -4- provisional selection letter dated 18.1.2007 and permanent appointment letter dated 13.6.2008, there was a period of more than one and half years and no adverse report was submitted regarding submission of a wrong residential certificate and in fact she continued to work on the post till 2011, which is more than four and half years whereafter, her appointment was cancelled by the Deputy Development Commissioner, Chatra. It is necessary to take note of this fact that the appellant was arrayed as an opposite party in the writ and notice was issued to her but for reasons best known to her she did not appear to contest the aforesaid writ petition. Admittedly the Aam

Sabha is the selecting authority of the Aanganbari Sevika and it has been held in the case of Smt. Sharda Devi and Smt. Tara Devi (supra), as cited by the learned counsel for the respondent No. 8 that such power is vested in the Selection Committee, which alone can issue order and make such recommendation of removal of a Aanganbari Sevika by the Child Development Programme Officer. The Deputy Development Commissioner has no jurisdiction to issue such order. In view of the facts as indicated hereinabove, since the order dated 15.02.2010 has been passed by the Deputy Development Commissioner, who has got no jurisdiction to do so hence the order dated 15.02.2010 is not sustainable in the eye of law and as such the same is hereby quashed. The matter is remitted before the Child Development Project Officer to pass a fresh order after providing an opportunity of hearing to petitioner within a period of eight weeks from the date of receipt of copy of this order and communicate the same to the petitioner. Writ petition is disposed of accordingly. (Sujit Narayan Prasad, J.) Tarun

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