

Vidyawati Devi Vs. Social Welfare Women and Child Development Dept

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Court : Jharkhand

Decided On : May-18-2015

Appellant : Vidyawati Devi

Respondent : Social Welfare Women and Child Development Dept

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 6728 of 2013
--- Vidyawati Devi --- --- ---- Petitioner Versus 1. The State of Jharkhand 2.
Secretary, Social Welfare, Women and Child Development Department,
Government of Jharkhand 3. Director, Social Welfare, Women and Child
Development Department, Government of Jharkhand 4. Deputy Commissioner,
Palamau 5. Deputy Development Commissioner, Palamau 6. District Social
Welfare Officer, Palamau 7. Child Development Project Officer, Vishrampur,
Palamau --- Respondents --- CORAM: The Honble Mr. Justice Aparesh Kumar
Singh For the Petitioner: Mr. Deva Kant Rai, Advocate For the Respondent-State:
Mr. Ashish Thakur, JC to Sr. SC-I --- I.A. No. 6532/2014 03/ 18.05.2015 Heard
counsel for the parties.

2. By the order contained in Memo No. 192 dated 08.10.2013 (Annexure-8)
passed by the Child Development Project Officer, Vishrampur, Palamau
(Respondent No. 7), petitioner has been communicated the order dated
25.09.2013 passed by the Deputy Commissioner, Palamau (Annexure-9) (also
impugned herein) that selection of the petitioner as Aanganbari Sevika for
Badhmanwa-I Aanganbari Centre, has been cancelled. Petitioner being aggrieved,

has assailed both the orders at Annexures-8 & 9 respectively in the writ petition.

3. The factual road map necessary to adjudicate the controversy raised herein, is briefly indicated hereunder: Petitioner was selected as a Sevika by the Aam Sabha held on 20.09.1996, but the same was not approved by the competent authority. Thereafter on 23.04.1997, next Aam Sabha selected one Sharda Devi which was also cancelled by the Deputy Commissioner, Palamau. The said Sharda Devi being aggrieved, approached the Court of Munsif, Palamu in Title Suit No. 95/1997 in which the petitioner was also made the defendant. The suit was dismissed by judgment dated 28.08.2009 (Annexure-12 to supplementary affidavit). Petitioner thereafter pursued her claim for selection on the basis of Aam Sabha held in 1996 and an 2. order of appointment was also issued on 30.03.2012 by the CDPO, Vishrampur, Palamau in view of the decision of District Social Welfare Officer, Palamu on 27.03.2012. Another lady Kumari Shabiya Pal being aggrieved of the appointment of the petitioner in 2012, has approached this Court in WPS No. 4563/2012. The writ petition was disposed of by the learned Single Judge of this Court on 05.09.2012 (Annexure-6) directing the Deputy Commissioner, Palamau to take a decision after examining the validity of the appointment of the respondent no. 6 / petitioner herein and if she is found to be over aged at the time of appointment made pursuant to the Aam Sabha held in 1996, he was allowed liberty to pass appropriate order cancelling the appointment of the respondent no. 6 therein i.e. present petitioner. The Deputy Commissioner, Palamau was also directed to hear the petitioner before taking any such decision. The order indicated that if the present petitioner's appointment is cancelled, de novo exercise shall be made for appointment of Aanganbari Sevika in accordance with law.

4. By the impugned order at Annexure-9 passed by the Deputy Commissioner, Palamau, after recording the fact that the petitioner's selection in the year 1996 was not approved and there was interregnum for more than 14 -15 years when the suit filed by Sharda Devi was dismissed in 2009, appointment of the petitioner based upon the selection exercise of 1996, in the year 2012, could not be approved as she has crossed the upper age limit in view of Departmental Circular No. 585 dated 02.06.2006 which prescribes the upper age limit as 40 years for such appointment to the post of Sevika. The Deputy Commissioner, Palamau has

held that the petitioner's appointment is not proper and has accordingly been revoked. A fresh Aam Sabha held pursuant to such cancellation, has resulted in selection of another person whose appointment petitioner seeks to challenge in I.A. No. 6532/2014.

5. Counsel for the petitioner submits that she has been representing for her cause all along and only because of pendency of the title suit instituted by one 3. Sharda Devi, no appointment of Sevika was made by the respondent authorities for same centre till date. Therefore, the petitioner should not have been made to suffer for the delay in completion of the process. It is submitted that moreover, when the appointment letter has been issued, there was no ground to revoke the same and order a fresh selection process.

6. Counsel for the respondent State has, after referring to the aforesaid undisputed facts of the case, submitted that the petitioner's appointment in 2012 could not be justified as she has become over aged and her appointment was made on the basis of selection exercise of 1996 which was never approved by the competent authority.

7. Having considered the rival submissions of the parties in the light of the factual road map of the case, it appears that no legal right accrued in favour of the petitioner only upon selection of her name by the Aam Sabha in 1996 which was never approved by the competent authority thereafter. Rather, a fresh Aam Sabha was held in 1997 which selected one Sharda Devi which was also revoked by the Deputy Commissioner, Palamau and Title Court refused to interfere in the decision by a well considered judgment delivered in 2009. If such a long period of time has elapsed since 1996 till 2012 when ultimately the petitioner was appointed on the said post, and in the background that the petitioner had never consciously agitated her non-selection, such appointment could not be justified in the eye of law on this count itself. However, it appears that on the date of her appointment, petitioner had also become over aged and could not have been granted appointment on the basis of selection of 1996 which had never been approved earlier. The Deputy Commissioner, Palamau after considering all these facts and taking note of the observations made by the learned Single Judge in WPS No. 4563/2012, has

rightly revoked the appointment of the petitioner after giving due opportunity of hearing to her. The consequent selection process has resulted in appointment of new Aanganbari Sevika which requires no interference 4 in the present set of facts. Accordingly, the writ petition is dismissed. I.A. also stands dismissed. (Aparesh Kumar Singh, J) Ranjeet/

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