

Baby Devi Vs. Social Welfare Women and Child Development Dept

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Court : Jharkhand

Decided On : Mar-03-2016

Appellant : Baby Devi

Respondent : Social Welfare Women and Child Development Dept

Advocate for Pet/Ap. : Mr. Anjani Kr. Verma

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 8046 of 2012
Baby Devi W/o Sri Daulat Pandit, resident of Village-Marwa, P.O. and P.S.-
Sarwan, District-Deoghar (Jharkhand). Petitioner Versus 1. The State of
Jharkhand, through The Secretary, Department of Social Welfare, Govt. of
Jharkhand, Ranchi, Project Building, Dhurwa, P.O. and P.S.-Dhurwa, District-
Ranchi (Jharkhand).

2. The Director, Social Welfare, Govt. of Jharkhand, Ranchi Social Welfare
Directorate, Near Gol Chakkar, Dhurwa, P.O. and P.S.-Dhurwa, District- Ranchi
(Jharkhand).

3. The Deputy Commissioner, Deoghar P.O., P.S. and District-Deoghar
(Jharkhand).

4. The D.D.C., Deoghar, P.O., P.S. and District-Deoghar (Jharkhand).

5. The District Social Welfare Officer, Deoghar, P.O., P.S. and District-Deoghar (Jharkhand).

6. The Child Development Programme Officer, Sarwan, P.O. & P.S-Sarwan, District-Deoghar (Jharkhand) Respondents --- CORAM : HON'BLE MR. JUSTICE PRAMATH PATNAIK --- For the Petitioner : Mr. Anjani Kr. Verma, Advocate For the Respondents : Mr. Prem Pujari, J.C to G.A ----- Dated-03.03.2016 Per Pramath Patnaik, J.

In the instant writ application, the petitioner has inter-alia prayed for quashing the memo dated 23.08.2012 (Annexure-5) issued by the D.D.C., Deoghar (respondent no.4) terminating the petitioner from the post of Anganbari Sevika of Marwa (Baijukura) Anganbari Centre and for direction to respondents for reinstatement of the petitioner on the post of Anganwari Sevika with all consequential benefits.

2. Mr. Anjani Kr. Verma, learned counsel for the petitioner submits that the petitioner being selected by the General Meeting on the post of Anganibari Sevika of Marwa (Baijukura) Anganbari Centre in Sarwan Block in the district of Deoghar, was appointed on the said post vide letter dated 28.03.2005 issued by the C.D.P.O., Sarwan Block, Deoghar. In pursuance to 2 the said appointment the petitioner continued his service with utmost satisfaction of the authorities, uninterruptedly without any blemish. The petitioner told respondent no.5 regarding illegal financial demand of lady supervisor and requested to take action. Thereafter, the petitioner was directed to file show cause vide memo dated 23.06.2012 issued by the respondent no.6. In pursuance to the letter dated 22.06.2012 issued by the D.D.C., Deoghar (respondent no.4) in the show cause submitted her reply before respondent no.6. But utter to the surprise and dismay the respondent no.4 vide memo dated 23.08.2012 issued an order terminating the petitioner from the post of Anganbari Sewika of Marwa (Baijukura) Anganbari Centre. Learned counsel for the petitioner submits that the D.D.C has got no jurisdiction to remove the Anganbari Sevika as has been held by this Court reported in 2001 (1) JLJR237 in the case of Smt. Sharda Devi Vs. State of Bihar and others. Learned counsel submitted that the impugned order is, thus, prima facie non est and wholly without jurisdiction and is unsustainable.

2. Mr. Prem Pujari, learned J.C to G.A, though the aforesaid prayer in the writ application, could not deny the said established position of law, learned counsel for the respondents fairly conceded that there is nothing on record to show that any such decision was taken by the Gram Sabha but the impugned order has been issued by the Child Development Programme Officer. The said decision has been taken by the Deputy Development Commissioner on the alleged complaint. Learned counsel for the State by referring to the counter-affidavit has submitted that the Mukhiya or Deputy Mukhiya is the local representative of village who made specific complaint on 18.07.2012 to the C.D.P.O. Sarwan mentioning therein personal inspection of Aanganbari centre on 07.03.2012 but the petitioner was found absent at 10:20 office hour. 3 Consequently, the lady supervisor informed but the petitioner has not mended herself. The copy forwarded to D.C and D.D.C. Deoghar vide letter dated 18.07.2012 is at Annexure-B to the counter-affidavit. It has further been submitted that the report has been submitted on 11.08.2012 which is self explanatory in terms with the conduct of the concerned sevika and the copy of the inquiry report has been marked as Annexure-C to the counter-affidavit. It has further been submitted that the petitioner has defalcated the government money by distribution of less quantity of poshahar which is not in conformity of government norms.

3. After hearing learned counsel for the respective parties and on consideration of the facts and materials placed on record, I find that the impugned order dated 23.08.2012 (Annexure-5) has been issued by the Deputy Development Commissioner, Deoghar terminating the petitioner from the post of Anganbari Sevika, Marwa (Baijukura) Anganbari Centre is without jurisdiction.

4. On perusal of the impugned order, it is apparent that the said order by the said respondent on the alleged complain of the Mukhiya or Deputy Mukhiya, as submitted by the learned counsel for the petitioner, there is nothing on record to show that there was any proceeding against the petitioner on the basis of the said complain or any other charge against the petitioner, which has been found proved. Though, there is mention of issuance of show cause but there is nothing on record to demonstrate that there is any consideration or application of mind on the said show cause. The said order appears mechanical and passed without any

application of mind and the same does not disclose the nature of the complain. Nothing has been brought on record to show that the Deputy Development Commissioner has got jurisdiction to pass such order of removal/termination of an Anganbari Sevika. This Court vide judgment dated 30.01.2008 in W.P (S) No.4561 of 2006 in the case of Nilima Mandal Vs. State of Jharkhand and others and in the case of Smt. Sharda Devi (supra) held that the D.D.C has got no jurisdiction to issue the order of removal/termination of an Anganbari Sevika. Such power is vested in the selection committee which can make such recommendation for removal to the Child Development Programme Officer who can issue such order. The order of termination can be passed on any such allegation after giving prior notice and affording adequate opportunity of hearing.

5. In view of the aforesaid discussions, the impugned order (Annexure-5) being without jurisdiction and violative of the principles of natural justice is held to be unsustainable and the same is, hereby, quashed and set aside. However, it shall be open to the respondents to pass a fresh orders in accordance with law and relevant circulars. (Pramath Patnaik, J.) RKM/-

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