

Sarita Devi Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Mar-11-2016

Appellant : Sarita Devi

Respondent : The State of Jharkhand and Ors

Advocate for Pet/Ap. : Mr. Binod Kumar Dubey

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 5360 of 2014
----- Sarita Devi, wife of Satyender Bharti, resident of village: Sirki Tola Parhiyadih II, P.O & P.S: Pratappur, District: Chatra. ... Petitioner Vs. 1.The State of Jharkhand 2.The Dy. Commissioner, Chatra 3.The District Development Commissioner, Chatra 4.The District Programme Officer, Chatra, P.O, P.S. & Distt: Chatra. 5.The District Social Welfare Officer, Chatra, P.O, P.S & District: Chatra. 6.The Chief Development Project Officer (CDPO), Pratappur, P.O., P.S. Pratappur, District: Chatra. Respondents ----- CORAM: HONBLE MR. JUSTICE PRAMATH PATNAIK ----- For the Petitioner : Mr. Binod Kumar Dubey, Advocate. For the Respondents : Ms. Sweta Singh, J.C to G.A. ----- 05/ Dated:

11. h March, 2016 Per Pramath Patnaik, J.: In the accompanied writ application, the petitioner has inter alia, prayed for quashing order dated 26.08.2011 issued by C.D.P.O in pursuance to letter dated 08.08.2011 issued by District Social Welfare Officer, Chatra pertaining to termination of the petitioner from services.

2. Heard Mr. Binod Kumar Dubey, learned counsel for the petitioner and Ms. Sweta Singh, J.C to G.A., learned counsel appearing for the respondents-state.

3. Mr. Binod Kumar Dubey, learned counsel appearing for the petitioner submitted that petitioner, who possesses all requisite qualification, was selected on the post of Sahayika by Aam Sabha and her selection was confirmed by the C.D.P.O vide letter dated 30.08.2009. Pursuant thereto, she continued to discharge her duties to the utmost satisfaction of the authorities. But, to the utter dismay, she was slapped with a show cause dated 30.03.2001 (Annexure

6) by District Social Welfare Officer, Chatra contending therein that as to why her selection may not be terminated since 2 she is not a permanent resident of Pariyadih and was asked to submit her reply within three days. In compliance thereof, the petitioner submitted her reply stating therein that in the residential certificate issued by the C.O, Pratappur, it is clearly mentioned that she is permanent resident of village Sidiki and Pariyadih is a part (Tola) of Sidiki, as Sidiki became thickly populated area then Sidiki- Pariyadih was formed. So she belongs to Pariyadih, which is part of Sidiki. Learned counsel for the petitioner further submitted that thereafter second show cause dated 28.04.2010 was issued by the respondents-authorities only to fill up the lacuna and even the residential certificate issued way back was cancelled. However, the petitioner replied to the said show cause justifying her selection and submitted that she belongs to Passhak Chhetra (Feeder Area) and the residential certificate, which was issued long back ought not to have been cancelled without giving any show notice to the petitioner. Learned counsel for the petitioner submitted that the respondents-authorities without taking any recourse of law and without making proper enquiry terminated the services of the petitioner vide impugned order dated 26.08.2011.

4. Learned counsel for the petitioner submitted that since the Aam Sabha has selected the petitioner, the impugned order of termination issued by the District social Welfare Officer, who is not the appointing authority, is wholly non-est in the eye of law and without any jurisdiction. It has further been submitted that District Social Welfare Officer has got no jurisdiction to direct CDPO to select any person as Sahayika or Sewika, as this power is vested with Aam Sabha. So the action of

the District Social Welfare Officer is wholly illegal and without jurisdiction. 3 5. To buttress his argument, learned counsel for the petitioner relied upon a judgment rendered in the case of Smt. Sarada Devi Vs. State of Bihar & Ors as reported in 2001 (1) JLJR237 wherein the removal of Aanganbari Sewika by the D.D.C, who has no jurisdiction to pass order of removal, has been quashed by this Hon'ble Court.

6. Ms. Sweta Singh, J.C to learned G.A. submitted that the District Social Welfare Officer, Chatra wrote letter to CDPO, Pratapur stating therein that the residential certificate of the petitioner is not genuine as she does not belong to the beneficiary belt and hence, a show cause notice was issued to her, to which she replied, which was found not satisfactory, hence, her services as Anganbari Sevika was terminated. Learned counsel for the respondents-State further submitted that as per Memo dated 02.06.2006, the candidate for the post of Sevika and Sahaika should be the resident of the beneficiary belt. Since, after the selection of the petitioner, it was found that she does not belong to beneficiary belt, hence, her services was terminated.

7. Having heard learned counsel for the parties at length and on perusal of the record, the impugned order of termination dated dated 26.08.2011, issued by C.D.P.O in pursuance to letter dated 08.08.2011 issued by District Social Welfare Officer, Chatra, is not sustainable in the eye of law for the following facts, reasons and judicial pronouncements: (i). In pursuance to vacancy for the post of Aanganbari Sewika in Pariyadih Sidiki Kendra, an Aam Sabha was held on 26.08.2009, in which, the petitioner along with two other candidates, namely, Smt. Parinta Devi (BC) and Poonam Kumari (BC) was put under the zone of consideration and as per 4 Government Circular dated 02.06.2006, the petitioner being a member of Schedule Caste was selected on the ground that the area was Scheduled Caste Bahul Chhetra and is surrounded by scheduled caste. However, after some time, the services of the petitioner was terminated vide impugned order dated 26.08.2011 issued by C.D.P.O in pursuance to letter dated 08.08.2011 issued by District Social Welfare Officer, Chatra, though after following the principles of natural justice, on the ground that the residential certificate submitted by the petitioner is not genuine as she does not belong to the beneficiary belt. (ii).

Thereafter, the District Social Welfare Officer, Chatra wrote a letter dated 08.08.2011 (Annexure B) to the CDPO, Pratapur stating that since the residential certificate of the petitioner- Sarita Devi was found forge, hence, directed to select Smt. Parinta Devi as Sewika in Pariyadih Aanganbari Centre, as she was being placed at serial no. 2 in the merit list prepared by Aam Sahba. However, later on vide letter dated 04.11.2011, the District Social Welfare Officer again letter to CDPO, Pratappur to keep selection of the sewika postponed as dispute arose about the beneficiary belt, vide Annexure C to the counter affidavit. (iii). In the meantime, vide memo dated 26.08.2011, offer of appointment was issued to said Smt. Parinta Devi, but she was not allowed to join her duties. Being aggrieved, she preferred W.P. (S) No. 6328 of 2013, which was disposed of vide order dated 21.01.2014 (Annexure D) with a direction to the respondents to take a decision in the matter of handing over the charge of the post of Aaganbari Sevika at Pariadih Aaganbari Centre udner Pratappur Block. 5 (iv). During course of hearing, learned counsel for the respondents-State has drawn attention of the Court to order dated 25.08.2014, Annexure E to the counter affidavit, wherein the respondent-C.D.P.O, Pratappur taking into consideration all the facts, Government circular dated 02.06.2006, the order passed in W.P. (S) No. 6328 of 2013 in the case of the Pranita Devi and also order passed in W.P.(S) No. 6261 of 2011, wherein the Hon'ble Court has quashed the order of termination passed by DDC on the ground that he has no jurisdiction to terminate the services of Anganwari Sevika, has directed to hold fresh Aam Sabha for selection of Aanganwari Sewika on the said centre. (v) Be that as it may be, in the case at hand, the impugned order of termination dated 26.08.2011 has been passed by District Social Welfare Officer, Chatra, hence, the same is not sustainable in law, particularly in view of Clause 16 of Govt. Circular dated 02.06.2006. Furthermore, the same issue has been decided by Hon'ble Division Bench of this Court in L.P.A. No. 393 of 2013 dated 24.07.2014.

8. As a cumulative effect of the aforesaid facts, reasons and judicial pronouncements and logical sequitur to the discussions made in foregoing paragraphs, the impugned order dated 26.08.2011 issued by C.D.P.O in pursuance to letter dated 08.08.2011 issued by District Social Welfare Officer, Chatra is hereby quashed and set aside.

9. The respondents-authorities are directed to take a fresh decision taking into account its own circular, decision of the Court as cited in its order dated 25.08.2014 (Annexure E), other rules and Government Circulars and the observations made by this Court 6 within a period of eight weeks from the date of receipt/production of copy of this order.

10. With the aforesaid observations and directions, the writ petition stands disposed of. (Pramath Patnaik, J.) Alankar/-

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