

Urmila Devi Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Mar-19-2016

Appellant : Urmila Devi

Respondent : State of Jharkhand

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 7739 of 2011
Urmila Devi, wife of Shri Ashok Ram, Resident of Village Ahilyapur, P.O and P.S.
Ahilyapur, District: Giridih Petitioner Versus 1. The State of Jharkhand.

2. Deputy Development Commissioner, District Collectorate, P.O and P.S. Giridih,
District: Giridih.

3. The Child Development Project Officer, Gandey, P.O and P.S. Gandey, District:
Giridih.

4. District Social Welfare Officer, District Social Welfare Office, P.O and P.S.
Giridih. Respondents --- CORAM : HON'BLE MR. JUSTICE PRAMATH
PATNAIK --- For the Petitioner : Mr. Prabhash Kumar, Advocate For the
Respondents : Mr. Soumitra Baroi, J.C. to G.P. VI ----- CAV on 15.01.2016
Pronounced on 19/03/2016 Per Pramath Patnaik, J.

In this writ application, under Article 226 of the Constitution of India, the petitioner has inter-alia prayed for quashing the order dated 08.09.2008, issued by the respondent no.4, whereby and whereunder information was given by the

respondent no.3 regarding removal of the petitioner from the post of Sahayika, who was working in the Anganbari Centre, Ahilyapur, Giridih and issuance of writ in the nature of certiorari for quashing the letter dated 15.09.2008 pertaining to removal of the petitioner, whereby the petitioner has been informed by the CDPO, Gandey, Giridih, in pursuance to the order passed by Deputy Development Commissioner, Giridih and District Social Welfare Officer (respondent no.4), the petitioner has been removed from the post of Sahayika and also for quashing of order dated 07.07.2011 passed by Deputy Commissioner, Giridih in Case No.1/10-11 pertaining to rejection of the appeal and for a direction to the respondents to forthwith 2 cancel/rescind/recall the order dated 08.09.2008 and 15.09.2008 and reinstate the petitioner on the post held by her.

2. Sans details, the facts, as disclosed in the writ application, in brief is that during inspection, it was found that the petitioner was absent and the petitioner was directed to file explanation to that effect and, accordingly, the petitioner filed an explanation before respondent No.3 explaining the detailed facts. The respondent No.3 wrote to the petitioner that Sewika of Anganbari Centre, Jova Pandit submitted a written information dated 11.10.2007 that the petitioner was absent from the Centre from 08.05.2006 to 11.10.2006, due to which Sewika is facing problem to run Anganbari Centre and the petitioner was directed to clarify the reasons of absence from the Centre without any intimation. Vide one letter dated 08.09.2008, District Welfare Officer, Giridih wrote to the respondent no.3 stating therein on the basis of letter dated 12.02.2008, issued by respondent No. 3, the Deputy Development Commissioner, Giridih vide letter dated 06.08.2008, the petitioner has been removed from the post of Sahayika of Anganbari, Ahilyapur. Being aggrieved by the order dated 15.09.2008, issued by the respondent no.3, the petitioner filed an appeal before the Deputy Commissioner, Giridih and the Appellate Authority vide order dated 07.07.2011 rejected the appeal. The petitioner being aggrieved by the order of the disciplinary authority as well as appellate authority having no other alternative, efficacious and speedy remedy and has approached this Court for redressal of her grievances.

3. Learned counsel for the petitioner has strenuously urged that the order of dismissal of the petitioner from post of Sahayika is illegal on the ground that the

concerned respondents have not adhered the clause 16 of letter dated 02.06.2006 of the Social Welfare Women and Child Development 3 Department. Learned counsel further submits that the impugned order of termination is a non-speaking order and no cogent reason has been assigned by the disciplinary authority as well as by the appellate authority. Learned counsel for the petitioner further submits that the details of the reply, filed by the petitioner, has not been properly appreciated by the disciplinary authority as well as by the appellate authority thereby prejudicing the petitioner and visiting the petitioner with civil consequences.

4. Counter-affidavit has been filed on behalf of respondents repelling the contentions made in the writ application. It has been inter-alia submitted that the letter dated 08.09.2008, issued by respondent no.4 and consequently letter dated 15.09.2008, issued by the respondent no.3 have been issued after due enquiry for removal of the petitioner from the post of Sahayika at Anganbari Centre at Ahilyapur, Gandey, Giridih. The Deputy Commissioner, Giridih by virtue of order dated 07.07.2011 in case no.1/10-11 has been rightly upheld the orders passed by the concerned respondents after due enquiry and collecting all the facts and also after hearing the petitioner and also on due consideration of totality of her circumstances. It has further been submitted that the case of Jova Pandit has no nexus with the case of the petitioner. It has further been stated that the order dated 07.07.2011 has rightly been passed by the Deputy Commissioner, Giridih in said case no.01/2010-11 and the same is speaking one.

5. Heard Mr. Prabhash Kumar, learned counsel appearing for the petitioner and Mr. Soumitra Baroi, J.C. to G.P. VI, learned counsel appearing for the respondents at length and perused the records.

6. After hearing learned counsel for the respective parties at length and on perusal of the documents on record, it appears that there is no procedural irregularities from the date of calling of explanation till the culmination order of punishment, but the impugned order, passed by the disciplinary authority, is a cryptic one, and the same does not contain the details of reply filed by the petitioner. The petitioner has been able to make out a case for interference due to the following facts: (i) The

case in hand, on perusal of the impugned order dated 08.09.2008, passed by the respondent no.4, it appears that on the direction of the respondent no.2, the impugned order of removal has been passed which is a cryptic, bold and non-reasoned order, since the said order smacks of non-application of mind. The impugned order dated 08.09.2008, vide Annexure-6, is unsupportable by any cogent reasons. (ii) The petitioner has submitted a detail show cause reply, vide Annexure-4 of the writ application, but the same has not been considered by the respondents to the misfortune of the petitioner and impugned order of removal from the post of Sahayika at Anganbari Centre at Ahilyapur has been passed, visiting the petitioner with civil consequences being violative of Articles 14 and 16 of the Constitution of India.

7. In view of the reasons stated in the foregoing paragraphs, the impugned order dated 08.09.2008, passed by the respondent no.4, and the letter dated 15.09.2008, passed by the respondent no.3, are not supportable by any cogent reasons, and the same are, hereby, quashed and set aside and the respondents are directed to consider the case of the petitioner a fresh in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. 5 8. With the aforesaid observations and directions, the writ petition stands disposed of. (Pramath Patnaik, J.) RKM/- N.A.F.R.

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