
(2011) 09 PAT CK 0114
In the Patna High Court
Case No : CWJC No. 5819 of 2011

Anjana Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 15-09-2011

Acts Referred:

Citation : (2012) 2 PLJR 685

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Advocate : Chaudhary Shyam Nandan, for the Appellant; S. Rahman For the State, for the Respondent

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—Petitioner was duly appointed as an Anganbari Sevika to work at Centre No. 116, Chakaram West, Ward No. 24. She was ordered to be removed from the post by virtue of order dated 5.10.2010 passed in Misc. Case No. 12 of 2010-11 under the signature of the District Programme Officer, Patna. The appeal filed by the petitioner before the Divisional Commissioner, Patna has also been dismissed vide order dated 11.3.2011 contained in Anneuxre-13. Petitioner wants quashing of both orders in the present writ application. One ground on which the order passed by the Divisional Commissioner has been assailed is that the appeal was adjourned for 4.3.2011, fixing next date as 11.3.2011 but even without carrying out any hearing on that date, a final order has been passed denying opportunity to the petitioner to have a fair hearing in this matter.

2. The Court called for the original records from the office of the Divisional Commissioner and to say the least, the Court was not satisfied in the manner in which the appeal of the petitioner came to be heard and decided. The averment and statements to some extent are reflected from perusal of the original file. In this regard, the Court can only state that right of appeal is a substantive right and it is not a cat and mouse game which is required to be played. Every citizen

must have a fair opportunity to be heard and his or her case adjudicated. There cannot be any dispute that there has to be a fair conduct of proceedings and nobody should feel or get an impression that the authorities have been unfair in the manner in which a quasi judicial proceeding has been heard and decided.

3. Petitioner in the writ application has stated that after due selection of the petitioner on the post of Anganbari Sevika, she has been working diligently without any complaint or any allegation ever being made from any quarter much less the beneficiaries. However, it is stated that one Anil Kumar Yadav who happens to be the husband of Ward Councilor of Ward no. 24, has been harassing the petitioner for illegal gratification by resorting to arm twisting methods and using his henchman to create nuisance as well as intimidating the petitioner into submission. Since the petitioner resisted, the harassment continued. Anil Kumar Yadav has many a cases instituted against him and he is known for his bad conduct and behaviour. Evidence of institution of such cases which are one to many, have been brought on record as Annexure-2 series. He is a determined kind of person willing to take law in his hand. When direct assault or intimidation failed, he resorted to filing public interest litigations before the High Court making all kinds of false and frivolous allegations. A direction, however, was issued to the respondent authorities to enquire into the matter.

4. Petitioner has brought on record the documents to show that there was substance in what has been stated by her not only in the writ application but even in the so-called enquiry carried out locally by the CDPO. However, while ignoring all these aspects of the matter, the District Programme Officer, Patna somehow succumbed to the pressure tactics of the said Anil Kumar Yadav and gave recommendation for removal of the petitioner without a proper enquiry and opportunity.

5. The appeal filed against Annexure-8 only affirmed the said order and that too in a circumstance which cannot be said to be happy as has been noted in the earlier part of the order.

6. Submission has been made on behalf of the petitioner that Annexure-8 has been issued without proper enquiry and without considering the show cause and the material brought by the petitioner before the authorities. The explanation offered by her has been very lightly brushed aside and in a unilateral kind of finding given by the District Programme Officer, Patna, the petitioner stands condemned. There is some narration with the regard to the allegation found in the working of the said centre but how much of it true and how much make-belief cannot be inferred from the reading of the said order. One thing, however, does emerge that the explanation offered by the petitioner, which included her show cause, has been very casually dealt with in the concluding part of the order as it was not worthy of consideration despite dominant evidence having been produced not only before the authorities but before this Court as well to establish the circumstance and motive to ensure her ouster, merely because she happens to be a lady willing to resist the illegal demands by a person who has a vested

interest because his wife happens to be ward councilor where the centre is being run by the petitioner.

7. The cursory kind of findings given by the District Programme Officer and the manner in which the appeal has been heard and decided without giving opportunity of hearing to the petitioner leaves this Court with no option but to quash both Annexure-8 and 13 and allow the writ application. Respondents are directed not to interfere with the working of the petitioner. if she stands removed she will be restored to her position and she will continue to work as Anganbari Sevika till appropriate decision in accordance with law is taken.

Writ is allowed.