
(2006) 07 PAT CK 0067
In the Patna High Court
Case No : CWJC No. 1343 of 2005

Arti Kumari and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 11-07-2006

Acts Referred:

Citation : (2006) 3 PLJR 351

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Rajendra Prasad, Pramod Kumar and Ritesh Kumar, for the Appellant; Anita Sinha and Jagannath Singh, for the Respondent

Final Decision : Allowed

Judgement

Barin Ghosh, J.—Petitioner No. 1 has been appointed as Anganbadi Sevika and Petitioner No. 2 has been appointed as Anganbadi Sahayika under two letters of appointments issued on 1st February, 2003 by the then Child Development Project Officer (CDPO). On 5th February, 2003 joining of the petitioners was accepted. Despite such appointment the petitioners have not been sent for training nor they have been paid their remuneration; hence this writ petition. In the petition the petitioners have contended that the then C.D.P.O. on being transferred the Respondent No. 7 became the C.D.P.O. and she on the pretext that the minutes of the Aam Sabha has not been signed by the Mukhiya is seeking to ignore the valid appointment of the petitioners with an object of appointing some others as Anganbadi Sevika and Anganbadi Sahayika. It is the contention of the petitioners that if by mistake the Mukhiya had not signed the minutes of the meeting of the Aam Sabha he has expressed his readiness in writing to put in his signature. A counter affidavit has been filed by one Kavipriya, who claims that she was Respondent No. 6 at the time of affirmation of the affidavit. In that she has stated that Aam Sabha was held on 31st January, 2003 for selection of Anganbadi Sevika and Anganbadi Sahayika and at the Aam Sabha the petitioners were selected. It has been stated that the Mukhiya was

present in the meeting but did not sign the Aam Sabha proceedings. It has been stated that in the absence of the said signature the selection process could not be held as valid and complete. It has been stated that in relation to such selection certain complaints were received and the same were directed to be investigated by the District Magistrate, Nalanda. The Investigating Officer in his report reported that the Hon'ble Supreme Court has directed appointment of Anganbadi Sevika and Anganbadi Sahayika by 30th June, 2004 and accordingly the District Magistrate, Nalanda issued an order dated 3rd November, 2004 to all C.D.P.Os. to initiate fresh election process in their respective jurisdictions. It is stated that before the letter dated 3rd November, 2004, the District Magistrate, Nalanda wrote a letter dated 15th September, 2004 to the Mukhiya and requested him to take necessary steps for selection of Anganbadi Sevika and Anganbadi Sahayika. It is stated that accordingly yet another Aam Sabha was convened on 14th November, 2004 when Indu Devi wife of Naresh Das and Sudha Kumari wife of Sanjay Paswan were selected as Anganbadi Sevika and Anganbadi Sahayika for the concerned centre. With that it has been stated that again the Mukhiya did not sign on the proceedings. It is stated that selection made on 31st January, 2003 was not done as per directions issued by the Welfare Department, Government of Bihar, however, which direction of the Welfare Department of the Government of Bihar was breached has not been spelt out. It has been stated that the petitioners were present at the meeting held on 14th November, 2004 but it has not been stated that they were considered as candidates at the said meeting.

2. According to the tenor of the counter affidavit it appears to me that in view of refusal on the part of the Mukhiya to sign the minutes of the proceedings of the meetings dated 31st January, 2003 and 14th November, 2004, the decisions taken thereon became ineffective. It is a shameful situation inasmuch as the District Administration including the C.D.P.O. is aware of the directions of the Hon'ble Supreme Court.

3. In the instant case, appointments were made much prior to the date fixed by the Hon'ble Supreme Court. In relation to the appointments, certain complaints were lodged. Those complaints were looked at much after the appointment letters were issued. Even if the enquiry suggested irregularities, it was incumbent upon the respondents to bring the same to the notice of the petitioners before revoking such appointments, instead the respondents acted in a manner which is unimaginable i.e. totally ignoring the appointment letters without revoking them. If non-signing of the minutes of the proceedings of the Aam Sabha by the Mukhiya was such a defect that appointments could not be considered to be valid, how could the then C.D.P.O. issued appointment letters has not been spelt out. In any event, when by writing the Mukhiya expressed his desire to put in his signature in the minutes, question of ignoring such appointment letters on the ground of absence of signature of the Mukhiya in the minutes is totally unjustified.

4. In those circumstances the writ petition is allowed and it is declared that the petitioners have been validly appointed by the appointment letters, as mentioned above, with the further direction upon the respondents to forthwith take steps to have the petitioners in trained and pay their remuneration. If necessary and if thought fit the respondents are at liberty to have the signature of the Mukhiya on the minutes and if not it shall be deemed that the same do contain the signature of the Mukhiya. The remuneration be paid prospectively from today. The writ petition accordingly stands disposed of.