
(2014) 01 AHC CK 0232
In the Allahabad High Court
Case No : W.P. (M./B.) No. 6734 of 2013

Diwakar Dwivedi

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 21-01-2014

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 29, 29(4)

Citation : (2014) 105 ALR 853

Hon'ble Judges : Rajiv Sharma, J; Mahendra Dayal, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Rajiv Sharma and Mahendra Dayal, JJ.—Heard learned Counsel for the parties. According to petitioner, he was appointed as Member of the Committee vide notification dated 16.8.2010 and his tenure is of three years. The petitioner being a Member of Committee performed his duties sincerely. While discharging his duties as Member, a motivated complaint was made by the District Probation Officer/opposite party No. 5 on which a show cause notice was issued and the petitioner tendered his reply dated 1.3.2011. Thereafter, again a show cause notice was issued on 25.5.2011 to which reply was again tendered on 31.5.2011 denying the charges levelled against him. Thereafter, the opposite parties remained in deep slumber and one fine morning, i.e., 22.5.2013, impugned order was passed and thereafter, consequential orders dated 30.5.2013 and 10.6.2013 were passed. Counsel for the petitioner contends that the removal of the petitioner from the post of Member of Child Welfare Committee, District Pratapgarh constituted u/s 29 of the Juvenile Justice (Care and Protection of Children) Act, 2000 vide order dated 22.5.2013 passed by the State Government is not only in blatant disregard of principles of natural justice but is also in utter violation of section 29(4) of the aforesaid Act read with Rule 92(2) of the Juvenile Justice (Care and Protection of Children) Rules, 2007.

2. Refuting the allegations, learned Standing Counsel has submitted that the

impugned orders are perfectly justified and it is incorrect to say that no enquiry was contemplated. As a matter of fact, an enquiry under the Chairmanship of Hon"ble Mr. Justice D.K. Trivedi was conducted which recommended for removal of the petitioner and thereafter, impugned orders have been passed.

3. Having examined the material on record, we are of the view that the enquiry has not been conducted as per provision laid down u/s 29(4) of the aforesaid Act, which provides that appointment of any Member of the Committee may be terminated, after holding enquiry by the State Government. The phrase "holding of enquiry" mentioned in section 29(4) and Rule 92(2) means holding a proper enquiry by giving opportunity to the person concerned in the enquiry which, undoubtedly, includes examination, cross-examination and supply of a copy of enquiry report before passing the order of termination. In the instant case, learned Standing Counsel has failed to prove by any documentary evidence that the aforesaid procedure has been adopted in its correct perspective.

4. In view of the above, the impugned order dated 22.5.2013 being in violation of principles of natural justice and section 29(4) of the Act is hereby quashed. Consequently, the other orders dated 30.5.2013 and 10.6.2013 are hereby quashed. The writ petition stands allowed in above terms.