
(2014) 11 JH CK 0077
In the Jharkhand High Court
Case No : W.P.(S) No. 2402 of 2010

Gulshan Bano

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Citation : (2015) 1 JLJR 468

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Ayush Aditya, Advocates for the Appellant

Judgement

Sujit Narayan Prasad, J.—Petitioner being aggrieved with the order dated 27.4.2010 by which her service as Anganwari Sevika has been cancelled, has approached this Court. The brief facts of the case as has been argued on behalf of the learned counsel for the petitioner is that the petitioner was appointed as Anganwari Sevika on. 26.8.2009. She started her duty, but on the basis of complaint made by one Karim Ansari, the Child Development Programme Officer, Jamua issued a show cause notice on 16.4.2010 asking the petitioner to the reply within two days.

2. It has been submitted on behalf of the counsel for the petitioner that the copy of the show cause notice dated 16.4.2010 had been received by her only on 29.4.2010 as such she could not be able to give reply to the same.

3. It has been submitted that since the impugned order has been passed on 27.4.2010 which cannot be said to be an order rather which is in the form of communication issued under the signature of the Deputy Development Commissioner, Giridih wherein the Child Development Project Officer, Jamua was directed to cancel the selection of the petitioner, institute an F.I.R. against her, directed to proceed within a week for selection process of Anganwari Sevika.

4. It has further been submitted that although the show cause notice was given under the signature of Child Development Project Officer on 16.4.2010 giving

therein only two days time which is not sufficient to fulfill the requirement under the law.

5. It has further been submitted that under the Government guideline dated 2.6.2006 the Child Development Project Officer is the competent authority to remove the Sevika of Anganwari with the approval of the Deputy Development Commissioner. The order since been passed by the Deputy Development Commissioner, and the order which is under challenge dated 27.4.2010 reasonably a communication referring therein the decision taken by the Deputy Development Commissioner, Giridih.

6. Thus, it has been argued on behalf of the learned counsel for the petitioner that decision has been taken by the authorities concerned without providing any opportunity of being heard and that too by the authority who is not competent to pass the order.

7. On the other hand, learned counsel for the respondent has submitted that petitioner has committed forgery. She has submitted the forged certificate. Hence she has got no right to remain on the post.

8. Heard the parties.

9. In view of Government circular dated 2.6.2006, which has been produced in course of argument, wherein there is specific provision at clause No. 16 that the Child Development Programme Officer is the competent authority to cancel the services of Sevika with the approval of the Deputy Development Commissioner. The Deputy Commissioner has been made Appellate Authority. From perusal of the order dated 27.4.2010 it appears that Child Development Programme Officer has been communicated the decision which has been taken by the Deputy Development Commissioner, Giridih. But the competent authority to cancel the selection of Anganbari Sevika is Child Development Programme Officer, with the approval of the Deputy Development Commissioner meaning thereby the Deputy Development Commissioner has got no power to pass an order of cancellation rather the power has been vested with the Child Development Project Officer.

10. The same issue was the subject matter of a case before this Court in the case of Smt. Tara Devi Vs. The State of Jharkhand and Others, . In this case also it was held that Deputy Development Commissioner has no jurisdiction to remove Anganbari Sevika.

11. Hence, the impugned order dated 27.4.2010 is not sustainable and as such the same is hereby quashed. The Child Development Programme Officer is directed to pass appropriate order if petitioner approaches before the authority concerned within three weeks from the date of receipt of copy of this order and pass an appropriate order within reasonable period, preferably within a period of four weeks thereafter.

12. It is made clear that the respondents will pass appropriate order after verifying the veracity of the certificate issued by the Gurukul Vidyalaya,

Brindawan (Mathura) at (Annexure-5 to the writ application), the certificate which has been submitted by the petitioner at that time of consideration of his candidature.

13. It is further made clear that while taking decision the authority shall take into consideration the genuineness of the said Gurukul Vidyalaya Brindawan (Mathura) as also as to whether such certificate issued by such institute is applicable in the State of Jharkhand or not.

14. It is made clear that this Court has not enter into the merit of this case. Accordingly, the writ petition is disposed of.