

(2015) 09 JH CK 0068
In the Jharkhand High Court
Case No : W.P. (S) No. 1380 of 2014

Joytsana Banerjee

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-09-2015

Acts Referred:

Citation : (2015) 4 JLJR 149

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Ajay Kr. Singh, for the Appellant; Aashish Kr. Thakur, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. Termination of the petitioner from the post of Aanganbari Centre, Maikhera, Mochitola, Block-Baghmara in the District-Dhanbad by order dated 30.1.2009 bearing memo No. 25 (Annexure-5) issued by the Child Development Project Officer, Baghmara (Respondent No. 5), has been upheld by the Deputy Commissioner, Dhanbad in appeal by the impugned order dated 25.10.2013 (Annexure-7). The appeal was considered and decided pursuant to the observations made in the earlier writ petition of the petitioner being WPS No. 2154/2013 challenging the original order of termination which was disposed of vide judgment dated 23.7.201 (Annexure-6).

2. It appears from the pleadings in the writ petition that the petitioner was appointed as a Sevika on 6.7.2004. She was served with a show-cause notice containing certain allegations of misconduct by the Respondent No. 5-Child Development Project Officer, Baghmara (Annexure-3) dated 20.8.2008 inter alia that she comes to the centre from Saraidhela, Dhanbad, as a result, there is a delay in opening of the centre almost everyday which has affected the functioning of the centre; despite repeated instruction of the Female Supervisor, Registers of the centre are not properly maintained; there is inter se dispute

going on between the Sevika and Sahaiyka which has affected the functioning of the centre and villagers have also complained against distribution of Poshahar to the Female Supervisor during inspection. There is no reply of the petitioner to the instant show-cause on record. From Annexure-4 letter dated 13.12.2008, it appears that the Child Development Project Officer, Baghmara reported the conduct of the petitioner to the District Programme Officer, Dhanbad. She also informed that despite show-cause being asked for the aforesaid charges, there has been no improvement in the conduct of the petitioner. She made a recommendation for termination of her services. It also appears from the said letter that the petitioner was found absent during course of inspection made on 31.5.2008 and 25.6.2008. This led to termination of the petitioner by Annexure-5 on 30.1.2009 on the grounds of irregularity in conduct of the centre.

3. While assailing the impugned Appellate Order, counsel for the petitioner has urged that termination of a duly selected Sevika/Sahaiyka can only be done by the Deputy Development Commissioner or the Selecting Body. In the instant case, no recommendation has been made by the Selecting Body i.e. Aam Sabha. It is also stated that the petitioner had submitted her explanation to the respondent No. 5, but without considering the same, order of termination has been passed by the respondent No. 5. According to the petitioner, Deputy Commissioner has not taken into account the grounds urged on behalf of the petitioner while upholding the termination of the petitioner. Reliance has been placed upon a judgment rendered by the learned Single Judge of this Court in the case of Urmila Devi vs. The State of Jharkhand & Others in W.P.S. No. 4073/2009 dated 17.12.2012.

4. Counsel for the respondent State submits that the petitioner's conduct was not found to be satisfactory in the discharge of her duties as a Sevika in the said centre. Inquiry have revealed dereliction of duty and after issuance of show-cause to the petitioner also, her functioning did not improve. It is also submitted that the Deputy Commissioner was informed by the CDPO, Baghmara that the petitioner was living outside the beneficiary area of the centre and was not a resident of the Village-Malkhera but she has been residing on account of a dispute with her husband, in her mother's place. Villagers have also opposed continuance of the petitioner. It is urged that the termination order was issued on the basis of the approval of the Deputy Development Commissioner, Dhanbad, as has been taken note by the Deputy Commissioner, Dhanbad in the impugned order. Reference has also been made to Circular dated 2.6.2006 which permits termination of the services of an Aanganbari Sevika for absence as also for dereliction in discharge of duties.

5. Having considered the rival submissions of the parties and material facts pleaded, it appears that the petitioner did not offer any satisfactory answer to the allegation of dereliction of duty and irregularities found in the functioning of the centre despite issuance of a show-cause on 20.8.2008, which has been referred to hereinabove. It further appears that during course of inspection also,

Female Supervisor had found the petitioner absent from the said centre. There was no improvement in the functioning of the petitioner even after such reprimand. Only thereafter, with the approval of Deputy Development Commissioner, Dhanbad, decision has been taken to terminate the services of the petitioner communicated by the Child Development Project Officer, Baghmara. The Deputy Development Commissioner has the authority under the provisions of Departmental Circular not only to approve the services of such Sevika, but also to terminate them. Further, it has been noticed from the impugned order that the petitioner has been found to be the resident of different area other than the beneficiary area of the centre and villagers have also opposed her continuance on the said post. On consideration of these facts, this Court is not inclined to interfere in the impugned order of termination. Accordingly, the writ petition is dismissed.