
(2003) 04 MP CK 0020
In the Madhya Pradesh High Court
Case No : Writ Petition No. 41 of 2001

Meera Bai

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 21-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2003) 04 MP CK 0020

Hon'ble Judges : S.P. Khare, J

Bench : Single Bench

Advocate : Govind Patel, for the Appellant; H.K. Chauhan, Panel Lawyer for State None for the other respondents, for the Respondent

Final Decision : Dismissed

Judgement

S.P. Khare, J.—This is a writ petition under Articles 226 and 227 of the Constitution of India challenging the order dated 6-12-2000 of the Commissioner, Rewa by which removal of the petitioner from her service as Aanganwadi Worker by order dated 24-1-2000 of the Collector, Rewa has been confirmed.

2. It is not in dispute that the petitioner was appointed as Aanganwadi Worker in village Duwari by order dated 11-2-1999 of the Chief Executive Officer, Janpad Panchayat, Theothar, District Rewa. This was done on the recommendation of the Gram Panchayat, Duari. The petitioner mother is Sarpanch of this Gram Panchayat. The petitioner submitted an affidavit dated 15-2-1999 to the effect that she is not related to any office-bearer of this Gram Panchayat. Respondent No. 4 Smt. Mamta Verma made a complaint to the Collector, Rewa stating therein that the petitioner has been appointed as Aanganwadi Worker in violation of the instructions issued by the State Government. According to these instructions a relative of the elected member of the Gram Panchayat cannot be appointed as Aanganwadi Worker. The guidelines issued by the State Government are contained in the circular dated 27-15-1996 (Annexure R/1). The Collector got an inquiry conducted by the concerned Development Officer and thereafter passed

the impugned order dated 24-1-2000 (Annexure p-4) on the ground that the appointment of the petitioner is against this circular of the State Government. The petitioner filed a revision before the Commissioner and that has been dismissed by order dated 6-12-2000.

3. The petitioner's case is that she was appointed by the Chief Executive Officer on the post of Aanganwadi Worker after following the proper procedure and therefore she could not be removed from that post by the order of the Collector. On the other hand, it is stated that the petitioner was appointed contrary to the guidelines laid down by the State Government. Therefore, the impugned orders are correct.

4. After hearing the learned counsel for both the sides this Court is of the opinion that the petition must be dismissed. It is admitted during course of the hearing of this petition that the Sarpanch of Gram Panchayat, Duari was the mother of the petitioner. It is stated in para 3 of para 5 of the petition: "the Gram Panchayat recommended the name of the petitioner". This Gram Panchayat was headed by the mother of the petitioner and she must have been aware while passing this resolution that she is recommending her own daughter for appointment as Aanganwadi Worker. She did not disclose in the resolution that she was doing so. As stated above the petitioner submitted affidavit dated 15-2-1999 (Annexure R/2) in which she has stated that the Sarpanch is not related to her. This was a false statement made by the petitioner on oath. It is not shown that any independent selection committee was constituted and it considered the names of all the candidates who had applied for the post of Aanganwadi Worker in village Duari. It is apparent that the petitioner was appointed because she was daughter of the Sarpanch. A perusal of the circular dated 27-5-1996 (Annexure R/1) of the State Government shows that any relative of the Sarpanch or other office-bearers of the Gram Panchayat cannot be appointed as Aanganwadi Worker. This guideline is consistent with the principle of natural justice. The Sarpanch being the holder of the public office should have dissociated herself from the resolution which was passed for appointing the petitioner as Aanganwadi Worker. It was necessary for the Sarpanch to disclose in the resolution that she was recommending her own daughter for appointment on this post. As stated above the affidavit filed by the petitioner is false. It is well settled that justice can never be seen to be done if a man acts as a judge in his own cause and he is himself interested in its outcome. This principle applies not only to judicial proceedings but also to a quasi-judicial as well as administrative proceedings. (J. Mohapatra and Co. and Another Vs. State of Orissa and Another, . It is not the actual bias that is material but the possibility of such bias renders the action illegal. In the leading case of the Supreme Court - A.K. Kraipak and Others Vs. Union of India (UOI) and Others, it has been laid down that it is against all canons of justice to make a man a judge in his own cause. In such a case there is a "conflict between the interest and duty". It is to be seen whether there is a reasonable ground for believing that there was likelihood of personal bias. This judgment has been described as a landmark in the

development of the administrative law and it has contributed in a large measure to strengthen the rule of law in this country. Thus, the guidelines issued by the State Government as per circular mentioned above are consistent with this salutary rule. The appointment of the petitioner cannot be protected by this Court.

5. It is argued that the Collector had no power to pass the impugned order of removal. This argument has no substance. The appointment order is patently illegal and it has been rightly set aside by the Collector. It has been upheld by the Commissioner. This Court is also of the opinion that the order by which the petitioner was appointed is illegal.

6. The petition is dismissed. Interim order dated 5-1-2001 passed by this Court stands vacated.