

(2014) 09 SHI CK 0119
In the High Court Of Himachal Pradesh
Case No : CWP No. 824 of 2014

Monika Singh

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

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

Citation : (2014) 09 SHI CK 0119

Hon'ble Judges : Sureshwar Thakur, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : Bhupinder Singh Kanwar, Advocate for the Appellant; Anup Rattan, Addl. Advocate General and Digvijay Singh, Counsel, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J.—The instant petition is directed against the order comprised in, Annexure P-12, whereby the respondents ordered the removal of the petitioner from the office of the Member of Child Welfare Committee, Shimla. The removal of the petitioner from the office of Member of Child Welfare Committee, Shimla was preceded by a detailed inquiry carried out by the State Selection Committee. The petitioner in the writ petition contends that the findings recorded by the State Selection Committee in its inquiry report are infirm, inasmuch as in the absence of standard operating procedures having been formulated and notified by the respondents for adoption by and for regulating the working of the District Child Welfare Committees functioning in the State of Himachal Pradesh, the insistence by the respondents upon the petitioner signing the minutes of the proceedings in the Register as a portrayal of her attending the meeting was uncalled for. She also contends that she had, on 5.8.2013, recorded the statements of the child and the mother along with respondent No. 6 hence it was untenably concluded by the State Selection Committee in its report that she was willfully absent on 5.8.2013. Moreover, she contends that on the strength of Annexures P-4 and P-7 a register qua attendance maintained by respondent No.

5 no conclusion could be derived qua the factum of hers not attending the sittings of the District Child Welfare Committee from 2.3.2013 to 29.6.2013. Besides, she contends that the entire procedure adopted by the State Selection Committee while it not having afforded her an adequate opportunity to project her stand in defence is hence ingrained with the vice of infraction of the principle of audi alteram partem, as such, rendering the conclusions and findings arrived at in the inquiry report, to be vitiated.

2. Detailed replies have been filed by the respondents to the writ petition wherein a focused stand has been portrayed qua the findings and conclusions arrived at by the State Selection Committee in its inquiry report being both vindicable as well as not warranting interference. The allegations against the petitioner fall within the ambit of the provisions of Section 29(4)(iii) of the Juvenile Justice (Care & Protection of Children) Act, 2000, inasmuch, as, she purportedly failed to, for consecutive three months without any valid reason, attend the meetings of the Committee. Also the State Selection Committee before commencing the inquiry qua the aforesaid allegations against the petitioner had served notice upon the petitioner. She in consequence appeared before the State Selection Committee. She even had projected her stand before the State Selection Committee. Consequently, she having been afforded full and adequate opportunity by the State Selection Committee to project her stand in defence disables her to contend that she was condemned unheard by the State Selection Committee. A perusal of the findings and conclusions recorded by the State Selection Committee in its inquiry divulge that they are both intensive and ad nauseam vis-?-vis enunciative upon the material on record in support of the allegations against the petitioner. A portrayal is made in it of each of the defences canvassed by the petitioner before the State Selection Committee as also the defence canvassed before this Court by the petitioner having been taken into account and it having been construed to be unsustainable. The portrayal aforesaid does not appear for lack of emergence of any perversity or absurdity to be unwarranted. A perusal of paragraph 21 of the inquiry report discloses the fact of the petitioner having admitted the factum of a register having been maintained by one of the members of Child Welfare Committee. However, on a perusal of pages 47, 54, 57, 58, 62 and 64 to 69 of the register, by the State Selection Committee unearthed the fact of the pages aforesaid having been omitted to be signed by the petitioner. The factum of the register acquiring credibility is manifested by the fact of the minutes of the meeting being scribed by the petitioner alongwith Mr. B.P. Adhikari. Consequently, with credibility having hence come to be foisted to the attendance register, absence of signatures of the petitioner as well as of Mr. B.P. Adhikari on pages aforesaid, marks the fact of the absence of the petitioner on the apposite dates. Therefore, leaves the allegation against the petitioner of hers without any valid reason absenting herself from the meetings of the District Child Welfare Committee to be sustainable.

3. While hence imputing credibility to the register maintained by Ms. Sapna

Banta, one of the members of the District Child Welfare Committee, the State Selection Committee while singling out 25.4.2013 as a test check date for determining the truth of the contention of the petitioner of her being present on the said date, it construed that in the face of the petitioner in her individual capacity having issued orders for age determination of a child portrays the fact that there was lack of satisfaction of the enjoined statutory coram for constituting the meeting of the District Child Welfare Committee valid and tenable. The petitioner in hers individually rendering orders of 25.4.2013, which individualistic act did not constitute the factum of a valid meeting of the District Child Welfare Committee, Shimla having been convened, sequently it was aptly determined that the petitioner in individually and unilaterally convening meetings of the District Child Welfare Committee, did not render her empowered to contend that she either participated in it or was present therein. In the said Selection Committee dispelling the factum of the presence of the petitioner on 25.4.2013 had anvilled its conclusion on well founded facts. Also then it having construed the maintenance of a file CNCP No. 107 of 2013 produced by the petitioner before it for communicating the factum of her presence in personification of her attendance to be depreciable, especially when the maintenance of the file by the petitioner is not in consonance with the office decorum nor also when it has not been concluded by the State Selection Committee that the proceedings of the District Child Welfare Committee as comprised in it were valid and tenable, theirs having been signed by the coram prescribed under the norms, does not obviously give any leverage to the petitioner to contend that with hers having maintained files of certain cases which purportedly demonstrate the factum of hers diligently performing her job, as well, as hers too maintaining the records of the proceedings, she was falsely implicated.

4. Even otherwise the petitioner taking to individually maintain case files portrays the fact of hers not working in collaboration with the Chairperson and other members of the District Child Welfare Committee, obviously when the proceedings of the District Child Welfare Committees are collaborative, joint and not individualistic, hers individualistic approach is antithetical to the very purpose of the constitution of the District Child Welfare Committee whose proceedings are valid only in case the enjoined coram attends them and not when as the petitioner has taken to individually record statements on 5.8.2013 of a child and mother and not obtained signatures of the members which would have rendered the enjoined coram to be tenably and validly convened on 5.8.2013 and its hence portraying the factum of hers diligently performing her duties inasmuch as she having attended the meeting on 5.8.2013.

5. For reiteration, she was enjoined to work in tandem with the chairperson and other members of the District Child Welfare Committee and not individually. The proceedings of the Child Welfare Committee were collaborative, joint and not individualistic. Even if she has contended before this Court that she on 5.8.2013 had recorded the statements of child and mother and obtained the signatures of

a member present, in personification of hers attending the meeting nonetheless besides also the said factum does not enjoy any sanctity in the absence of the coram prescribed under Rule 26 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 for a meeting of the District Child Welfare Committee being construed to be valid, being of three members, having remained fulfilled inasmuch, as, on 5.8.2013 she had alongwith a co-member signed the proceedings whereas the said factum did not constitute the holding of a valid meeting of the District Child Welfare Committee within the ambit of Rule 26 of the Juvenile Justice (Care and Protection of Children) Rules, 2007. Hence, her presence then, if any, is of no consequence.

6. Moreover, each of the reasons as propounded by the writ petitioner before this Court for rendering untenable the conclusion and findings arrived by the State Selection Committee have been both intensively and extensively discussed and adverted to by the State Selection Committee in its report. A preponderant emphasis has been laid by the State Selection Committee while considering the defence portrayed by her anchored upon the factum of the petitioner as contended by her before it taking to maintain individualistic files of proceedings, as also, of the ratification of the proceedings of the District Child Welfare Committee by the coram which hence purportedly foisted it with tenability. Nonetheless with the factum of hers having omitted to sign the minutes register whose credibility remained unrecorded as tenably concluded by the State Selection Committee pronounces upon any such ratification being entirely fictitious. Consequently, the allegation against the petitioner stood proved by a reasoned order rendered by the State Selection Committee. The order of removal of the petitioner from the office of the Member of the District Child Welfare Committee while harbored upon a well reasoned inquiry report which is neither perverse nor absurd, hence does not require any interference.

7. Lastly, the learned counsel for the petitioner contends that in the absence of the respondent having formulated a standard operating procedure for adoption by the District Child Welfare Committee for regulating their meetings the respondent untenably insisted upon the factum of recording and signing of minutes register in personification of hers having attended the meetings of the District Child Welfare Committee. However, the said contention gets disempowered as well as rudderless in the face of Rule 26(4), of the Juvenile Justice (Care and Protection of Children) Rules, 2007 which is extracted hereinafter:

"26(4). For final disposal of a case, the order of the Committees shall be signed by at least two members, including the Chairperson."

8. Prescribing the statutory necessity of the orders of the Committee being signed by atleast two members. Besides, the said statutory requirement fastened upon the District Child Welfare Committee, the maintenance and signing of the minutes register in corroboration to and in support of the factum of the members of the Committee while comprising a valid coram holding sittings of the District

Child Welfare Committees wherein decisions were arrived at, is also impliedly necessitated. Therefore, with their being a statutory prescription in the Juvenile Justice (Care and Protection of Children) Rules, 2007 qua the regulatory procedure to be adopted by the District Child Welfare Committee for the holding of their meetings, there was no necessity enjoined upon the respondents to either formulate or to circulate for adoption by the District Child Welfare committee any standard operating procedure for governing the manner of their holding meetings or qua the manner in which their presence therein is to be established.

9. The summa bonum of the above discussion is that when each of the stances projected by the writ petitioner before this Court for falsifying the allegations though concluded to be truthful by the State Selection Committee have been meted out with tenable, sound and cogent reasoning by the State Selection Committee that too on an intensive analysis of the material placed before it. As also when the said findings as arrived at by the State Selection Committee having not been displayed by any cogent material to the contrary adduced by the petitioner to be nugatory, hence, the findings and conclusions are both reasonable and tenable. Accordingly, the impugned order Annexure P-12 is affirmed and maintained. The writ petition is dismissed. No costs. All pending applications are also disposed of accordingly.