
(2018) 04 JH CK 0031
In the Jharkhand High Court
Case No : W.P. (S) No. 89 of 2009

REKHA KUMARI

APPELLANT

Vs

STATE OF JHARKHAND AND OTHER

RESPONDENT

Date of Decision : 10-04-2018

Acts Referred:

Citation : (2018) 04 JH CK 0031

Hon'ble Judges : Pramath Patnaik, J

Bench : Single Bench

Advocate : Rahul Kamlesh, Sunil Singh

Final Decision : Disposed Off

Judgement

Pramath Patnaik, J

1. In the captioned writ application, prayer has been made

for quashing order dated 29.08.2008, wherein giving reference to order passed in W.P. (S) No. 5064 of 2007, the petitioner's appointment as

â??Aanganwari Sewikaâ? was cancelled and further prayer has been made to allow the petitioner to continue as â??Aanganwari Sewikaâ? in

Aanganbari Kendra, Kendua and also for direction upon the respondents to stay the notification published in daily newspaper on 6.12.2008 for fresh

selection of Aanganwari Sewika.

2. The facts, as delineated, in the writ application, in brief is that the petitioner was selected as â??Aanganwari Sewikaâ? in the General Body meeting

held on 26.07.2007, which was confirmed by respondent no. 6-C.D.P.O, Dumka vide memo dated 29.07.2007. It has been averred that pursuant to

her selection she continued to discharge her duties with utmost satisfaction to the authorities concerned, but, in the meantime, one Nutan Kumari,

respondent no. 7 herein, moved this Court by filing W.P. (S) No. 5064 of 2007 challenging the appointment of the petitioner on the ground that she

possess higher qualification. The said writ petition was disposed of with liberty to said Nutan Kumari to file fresh representation before the Deputy

Commissioner, Dumka. With the liberty aforesaid, respondent no. 7-Nutan Kumari approached the Deputy Commissioner, Dumka, who passed order

dated 29.08.2008 whereby appointment of the petitioner has been cancelled, which is impugned in this writ application.

3. Heard Mr. Rahul Kamlesh, learned counsel for the petitioner and Mr. Sunil Singh, Associate counsel to learned S.C. (Mines) for the respondents-

State. Though notice was validly served upon respondent no. 7 but none appeared on behalf of respondent no. 7.

4. Learned counsel for the petitioner submitted that though the petitioner was made party-respondent no. 7 in W.P. (S) No. 5064 of 2007 but no notice

was served upon her to place her case before this Honâ??ble Court and she could only know about this matter when she was called by respondent

no. 2 during passing of impugned order dated 29.08.2008 but it was an empty formality as she was not afforded with the opportunity of being heard.

Learned counsel for the petitioner further submitted that the selection of the petitioner was made strictly in adherence with the Rules/Circular issued

for appointment of â??Aanganwari Sewikaâ??. Learned counsel for the petitioner further submitted that in the impugned order, the respondent no. 2 has

wrongly mentioned that Clause 7 (Ga) (Gha), (Cha), (Chha) have been violated. It has been submitted that from bare perusal of relevant Circular

dated 02.06.2006 it is manifestly clear that each and every of the eligibility criteria has been fulfilled as the petitioner is the permanent resident of the

locality wherein the Anganbari Centre is situated. Learned counsel for the petitioner further submits that educational qualification is not only the

criteria besides it there are other criteria also, which the petitioner fulfils; hence she was rightly selected by the General Body in its meeting dated

26.07.2007.

5. As against this, learned counsel for the respondents submitted that while passing order dated 29.08.2008, the respondent no. 2 found that the

procedure and instructions as laid down in Government letter dated 02.06.2006 for selection of â??Aanganwari Sewikaâ?? has not been followed, hence

after affording full opportunity to the parties concerned passed the impugned order, which needs no interference by this Court. It has further been

submitted that after cancelling the appointment of petitioner, a fresh advertisement has been floated but till date no appointment has been made and

further the post of 'Aanganwari Sewika' in Kendua Centre is still vacant.

6. From perusal of pleadings available on record, it appears that one Nutan Kumari (respondent no. 7 herein) knocked the doors of this Court by filing

W.P. (S) No. 5064 of 2007 challenging the appointment of the petitioner, which was disposed of vide order dated 26.06.2008 giving liberty to said

Nutan Kumari to file fresh representation before the Deputy Commissioner, Dumka. With the liberty aforesaid, respondent no. 7-Nutan Kumari

approached the Deputy Commissioner, Dumka, who passed order dated 29.08.2008 whereby

appointment of the petitioner has been cancelled stating that in the General Body meeting held on 26.07.2007, meant for selection of Sewika/Sahayika,

Clause 7 (Ga) (Gha), (Cha), (Chha) of Departmental Letter dated 02.06.2006 has not been followed. In the said letter itself, it has been directed to

hold fresh selection process.

7. Since the date of passing of impugned order dated 29.08.2008 now about a decade has passed and as per supplementary counter affidavit filed by

the respondents-State the said post is still vacant as after cancellation of appointment of petitioner no appointment was made on the said post.

8. For the reasons aforesaid, to meet the ends of justice, respondents are directed to float a fresh advertisement for the Anganbari Centre in question

at an earliest and since for a decade, the Centre in question remained un-operational, it is directed to undertake exercise of completion of the entire

process of selection within a period of four months from the date of receipt/production of copy of this order. It is made clear that the petitioner and

respondent no. 7 herein are free to participate in the process of selection and impugned order dated 29.08.2008 shall not come in the way of the

petitioner in any manner.

9. With the aforesaid observations and directions, the writ petition stands disposed of.