
(2005) 06 PAT CK 0011
In the Patna High Court
Case No : CWJC No. 9977 of 2004

Renu Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 22-06-2005

Acts Referred:

Citation : (2005) 3 PLJR 409

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shiva Kirti Singh, J.—Heard learned counsel for the petitioner and learned counsel for the State. Petitioner was working as Anganbari Sewika at centre located in village Gunhesa under Gogari Gram Panchayat in the district of Sheikhpura. By impugned order dated 31.10.2002 contained in Annexure-5 petitioner has been deselected under orders of Child Development Project Officer (CDPO), Sheikhpura in compliance of order of District Development Commissioner, Sheikhpura dated 26.10.2002. It appears that there were reports from the CDPO, Sheikhpura that during inspection on various dates petitioner was found absent from the centre and she was not looking after the work of Anganbari Sewika properly. The term deselection in effect amounts to removing the petitioner from the post of Sewika under the Anganbari Project.

2. Learned counsel for the petitioner has relied upon a circular issued by the State of Bihar in the Department of Social Welfare, Government of Bihar dated 25.9.2001 to submit that it is the Gram Panchayat which in its general meeting selects Sewika for the Anganbari Project and her working under the Project is under the supervision of Gram Panchayat which also has been vested with control over the persons employed in the Project. Learned counsel for the State on the other hand has referred to earlier circular dated 13.6.1998 which provides that in case Anganbari Sewika is found to be working in irregular manner or absent herself on account of illness or any other reason for more than 15 days

then after asking for explanation, the CDPO after obtaining prior approval of the Deputy Development Commissioner may deselect the Anganbari Sewika. Against such order an appeal would lie before the District Magistrate.

3. On perusal of the two circulars which have been annexed with the writ petition it is clear that the later circular dated 25.9.2001 supersedes the earlier circular to the extent of inconsistency. Under the circular of 2001 the control over personnels has been specifically vested in the Gram Panchayat. Learned counsel for the State has fairly submitted that provision of appeal before the Collector has also been subsequently annulled by another circular issued in the year 2003.

4. In view of nature of the Anganbari Project and the duties of Anganbari Sewika which is to be supervised by Gram Panchayat and its Mukhiya, this Court is of the view that any complaint about improper working of the Anganbari Sewika or regarding her unauthorised absence must be brought to the notice of the concerned Gram Panchayat and its Mukhiya and the power of deselecting must be now that of Gram Panchayat in its general meeting convened for the purpose. Any other interpretation of, the circulars in this regard would interfere with the powers of Gram Panchayat which must be maintained for effective supervision as well as for disciplinary action over Anganbari Sewika/Assistants.

5. In view of aforesaid discussion, the impugned order contained in Annexure-5 is quashed but liberty is granted to the Chief Development Project Officer, Sheikhpura that the relevant facts and materials relating to irregular functioning/ unauthorised absence of the petitioner may be brought to the notice of the concerned Gram Panchayat and its Mukhiya so that the matter may be considered in the general meeting of the Gram Panchayat for taking appropriate decision on the basis of relevant facts and in accordance with law. The appellate order of the District Magistrate contained in Annexure-6 merely affirms the order contained in Annexure-5. Hence, the same is also quashed. The writ petition is allowed to the aforesaid extent.