

(2011) 06 JH CK 0082

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2832 of 2011

Ruksana Khatoon

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-06-2011

Acts Referred:

Citation : (2011) 06 JH CK 0082

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—The Petitioner is aggrieved by the order dated 20.4.2011 whereby the Petitioner's selection as Sevika of Anganbari Centre at Durjanadih, Dhanwar has been cancelled.

2. It has been stated that the Petitioner was duly selected as Sevika of the said Anganbari Centre on the basis of the recommendation of the Aam Sabha dated 24.8.09. The Petitioner was working since then as such till 20.4.2011. Suddenly she received the impugned order cancelling her appointment on the allegation that the Petitioner was irregularly appointed. Earlier by notice dated 16.3.2011, she was asked to appear with her original documents regarding her educational qualification, caste and residence. She complied with the same. She had appeared and produced all the certificates which were found in order. But in spite of the same, the impugned order dated 20.4.2011 has been issued by the Deputy Development Commissioner, Giridih whereby her said selection has been arbitrarily and illegally cancelled.

3. Learned J.C to G.P-III appearing on behalf of the Respondents submitted that there was complain against the Petitioner which was inquired into by giving her notice dated 16.3.2011. More qualified lady was available in the village, but she was ignored and not appointed as Sevika. The Deputy Commissioner considered the said aspects and found the Petitioner's appointment irregular. He has

cancelled the said appointment and has directed to make fresh appointment of Sevika for the said Centre.

4. I have heard learned Counsel and considered the facts and the materials on record. There is no dispute that the Petitioner was appointed by the resolution of Aam Sabha. The only allegation against the Petitioner is that her appointment was irregular as another lady having higher qualification was available in the village for appointment on the post of Sevika. The Respondents have also taken the stand that before cancelling the Petitioner's appointment, notice and sufficient opportunity was given to her to explain the circumstances and there is no illegality and arbitrariness in the impugned order.

5. The alleged notice dated 16.3.2011 is Annexure-2. On perusal of the same, it is evident that the Petitioner was asked to produce her certificates regarding education, caste and residence in original. It has been mentioned in the said notice that one Md. Kalimuddin and others had complained that the Petitioner's selection was wrongly made. However, there is nothing in the notice showing any just reason for alleging her appointment as illegal. There is vague statement that her appointment was wrongly made. By the said notice she was merely directed to produce her certificates. She was not asked to explain against any allegation. The impugned notice (Annexure-2), thus, does not conform the requirement of the principles of natural justice and the same is not sufficient to establish compliance of the same. Even in the impugned order, it has not been stated that any such reason was informed to the Petitioner and she was given an opportunity to explain the same. On perusal of the impugned order, I find that one Fazilat Khatoon, who had higher qualification, was also present, but she was not considered for appointment. The Petitioner has brought on record the resolution of the Aam Sabha dated 24.8.09 in which she was selected by the said Sabha. From the same, it is clear that in the Gram Sabha only the application of the Petitioner was received. There was no other application for consideration. In view thereof, I find no basis for the allegation made in the impugned order that Fazilat Khatoon was also one of the candidates available for consideration of her appointment on the said post on 24.8.09. I, therefore, find no valid ground in support of the impugned order dated 20.4.2011. The impugned order is also unsustainable for non-compliance of the principles of natural justice. In view of the reasons aforementioned, the impugned order dated 20.4.2011 is quashed. This writ petition is allowed.

6. However, if there is any legal ground to interfere with any decision of the Gram Sabha, the competent authority is always at liberty to proceed in accordance with law.