
(2009) 02 RAJ CK 0034
In the Rajasthan High Court

Santosh

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 10-02-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2009) 02 RAJ CK 0034

Hon'ble Judges : K.S. Rathore, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K.S. Rathore, J.—This writ petition is directed against the orders impugned dt. 04.07.2008 and 20.06.2008, whereby the services of the petitioner have been terminated.

2. The case of the petitioner is that on the recommendation of the Deputy Director, ICDS Alwar, she was selected as Angan Bari Karyakarta/Sahayika vide order dt. 29.09.2007. She joined her duties and rendered her services as Angan Bari Karyakarta. On 20.06.2008, the respondent No. 2- Deputy Director (Child Welfare) Samekit Child Welfare Services, Alwar issued an order to the respondent No. 3- Child Development Project (Pariyojna) Officer, Women and Child Welfare Department, Kathumar, directing to remove the petitioner and to appoint one Smt. Mithilesh Saini, the respondent No. 4 in her place. In compliance of the order dt. 20.06.2008, the respondent No. 3 removed the petitioner from service vide order impugned dt. 04.07.2008.

3. The aforesaid orders dt. 20.06.2008 and 04.07.2008 have been challenged by the petitioner in the instant writ petition on the ground that the order of dismissal from service passed by the respondents is without following the process prescribed and is violative to the provisions of Articles 14 and 16 of the Constitution of India, as no opportunity of being heard was provided to the petitioner.

4. Per contra, learned Counsel appearing for the private respondents as well as for the State, submitted that as per the resolution/decision of the Gram Sabha, the respondent No. 3 issued appointment order dt. 16.08.2007 appointing respondent No. 4 Smt. Mithilesh Saini, who is a handicapped person, firstly as Aangan Bari Karyakarta, Bahatu Kalan, Kathumar, Alwar according to the guidelines issued by the State Government dt. 15.09.2003. It is also submitted that the petitioner was not having requisite qualification as she is 8th pass, whereas the respondent No. 4 Smt. Mithilesh Saini is 10th pass and is a handicapped person.

5. In support of their submissions, the learned Counsels placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of State of Karnataka And Ors. v. Ameerbi And Ors. reported in (2007) 11 SCC 681, wherein the Hon'ble Supreme Court has held that "Persons working as anganwadi workers they do not hold civil post and their application is not maintainable u/s 15. The posts of anganwadi workers are not statutory posts they are created under a scheme."

6. Reliance has also been placed on the judgment passed by the co-ordinate Bench of this Court in Smt. Sakoo v. State of Rajasthan and Ors. reported in 2008 WLC(Raj.) UC 553, wherein it has been held that "Power to consider candidates vesting in gram sabha."

7. I have heard rival submissions of the respective parties and carefully gone through the orders impugned dt. 20.06.2008 and 04.07.2008. I have also perused the judgments referred by the learned Counsels appearing for the respondents.

8. It is not disputed that the appointment of respondent No. 4 Smt. Mithilesh Saini was made vide resolution passed by the Gram Sabha, but in view of the ratio decided by the Hon'ble Supreme Court and the co-ordinate Bench of this Court, the appointment of the petitioner was not made in accordance with the provisions of law and it is also not disputed that the petitioner does not possess requisite qualification to be a Aanganbari worker. Therefore, the appointment given to the respondent No. 4 Smt. Mithilesh Saini by the Gram Sabha requires no interference by this Court as the petitioner has got no right to challenge the same in view of the judgment of the Hon'ble Supreme Court.

9. Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed.

The interim order dt. 17.07.2008 granted by this Court also stands rejected.