
(2017) 03 JH CK 0109
In the Jharkhand High Court
Case No : 3912 of 2013

Santosh Kumar Mandal @ Santosh Mandal	APPELLANT
Vs	
The State of Jharkhand	RESPONDENT

Date of Decision : 23-03-2017

Acts Referred:

Citation : (2017) 03 JH CK 0109

Hon'ble Judges : Pramath Patnaik

Bench : SINGLE BENCH

Advocate : Ranjan Kr. Singh, J.S. Tiwari

Judgement

1. In the accompanied writ application, the petitioner has inter alia prayed for quashing the order dated 26.02.2013 (Annexure-5) passed by the respondent no. 2 and 3 pertaining to cancellation of the appointment of the petitioner from the post of Aanganbari Sevika and for direction to the respondents to reinstate the petitioner in services.

2. The brief facts, as disclosed in the writ application, is that initially the petitioner was appointed as Aanganbari Sevika at Baijnadih Aanganbari Kendra on 22.03.2007, vide Annexure-1 to the writ petition. After appointment on the said post, the petitioner was working to the utmost satisfaction of his superior authorities, but to the utter surprise and consternation, a show cause notice dated 08.09.2012 vide Annexure-3 was issued to the petitioner. In pursuance to the show cause, the petitioner submitted his reply vide Annexure-4 to the writ petition. Thereafter, petitioner was dismissed from services vide order dated 26.02.2013 under the joint signature of respondent nos.2 and 3. During pendency of the writ application, I.A no.3228 of 2014 has been filed annexing the office order dated 21.11.2012 passed by the C.D.P.O., Jamtara, vide Annexure-6 to the writ petition, wherein the services of the petitioner has been terminated by the C.D.P.O., Jamtara on the behest of District Social Welfare Officer as well as the Deputy Development Commissioner. Being aggrieved by the impugned order of termination, the petitioner left with no alternative, efficacious

and speedy remedy, approached this Court under Article 226 of the Constitution of India, invoking extraordinary jurisdiction of this Court for redressal of her grievance.

3. Learned counsel for the petitioner submits that the impugned order of punishment which has been passed by the respondents, is in the teeth of Clause 16 of the circular dated 02.06.2006 issued by the Government for appointment of Aanganbari Sevika. Learned counsel for the petitioner further submits that one similar case has been rendered by this Court bearing W.P.(S) No.2402 of 2010 reported in 2015 (2) JBCJ 424 (Gulshan Bano v. State of Jharkhand & Ors.). Learned counsel for the petitioner further submits that although show cause notice was given under the signature of Child Development Project Officer, Jamtara and time was given for filing of the reply but under the guideline dated 02.06.2006, the Child Development Project Officer is the competent authority to remove the Sevika of Anganbari with the approval of the Deputy Development Commissioner. But in the instant case, learned counsel for the petitioner submits that on direction of the respondent no. 2, the impugned order of termination has been passed by the respondent no.3. The respondent no.3 has not applied his mind independently so the impugned order is bereft of reasons and is assailable on that ground. Learned counsel for the petitioner further submits that the competent authority i.e. the Child Development Project Officer has not cancelled the selection of the petitioner and Deputy Development Officer has no power to pass an order for cancellation rather the power vests with the Child Development Project Officer.

4. Controverting the averments made in the writ application, a counter affidavit has been filed by the respondents justifying the action of the respondents in passing the impugned order. It has been submitted in the counter affidavit that the on 08.09.2012 the respondents jointly conducted an inspection in the Anganbari Centre of Baijnathdih. During inspection, respondents found serious irregularity in Midday Meal, which was not prepared for the students, for which the petitioner was appointed as Sevika. Not preparing the midday meal is heinous crime against the minor, poor children as well as crime against the State Government also. Therefore, a show cause notice was issued to the petitioner for the said irregularity vide letter dated 08.09.2012. The petitioner filed reply to the show cause which was found to be unsatisfactory and against the condition laid down in column 3 and 4 of the appointment letter dated 22.03.2007. The petitioner made representation before the Deputy Commissioner, Jamtara, the respondent no.2 for consideration. On 26.02.2013, a meeting was held in the Presidentship of the respondent no.2 for hearing the petitioner and the cause shown by the petitioner that the students were not present and articles of Posahar not available. But in the meeting she said that Jalawan were wet due to rain and there were no coal whereas in the show cause of the petitioner shows that Sahayeeka has gone from the Centre for her own problem and students also went. The cause shown in show cause and cause placed before the meeting dated 26.02.2013 were contradictory which shows the mala fide intention and

thereby the respondents cancelled the appointment of the petitioner.

5. Mr. J.S. Tiwari, J.C. to S.C.I has reiterated the submissions made in the counter affidavit. Learned counsel for the State has strenuously urged that there is absolutely no infirmity in cancelling the appointment of the petitioner since there is dereliction on the duty of the petitioner and she has violated the conditions as mentioned in the terms of appointment. Therefore, absolutely there is no irregularity committed by the respondents in terminating the services of the petitioner. Learned counsel for the respondents has not disputed the settled position of law which has been referred by the learned counsel for the petitioner.

6. Having heard learned counsel for the respective parties and on perusal of the records, I am of the considered view that the petitioner has been able to make out a case for interference, due to the following facts and reasons: Admittedly, it is not more res integra that the very same issue has been decided by this Court in the case of Smt. Tara Devi v. State of Jharkhand reported in 2013 (3) JLJR 497. In the said case it was held that the Deputy Development Commissioner has no role to remove the Anganbari Sevika. Hence, the impugned order of termination dated 21.11.2012 vide Annexure-6 to the writ petition, is not legally sustainable and as such, the same is hereby quashed and set aside. The Child Development Project Officer is directed to pass an appropriate order as per Government Guideline dated 02.06.2006, if petitioner approaches before the authority concerned within three weeks from the date of receipt of copy of this order and pass an appropriate order within reasonable period, preferably within a period of four weeks thereafter.

7. It is also made clear that this Court has not gone into the merit of the matter and it is left open to the respondent no.3.

8. With the aforesaid direction, writ petition stands disposed of.