

(2009) 02 AHC CK 0077

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 31890 of 2008

Suman Devi

APPELLANT

Vs

State of U.P. Through Secretary Bal Vikas Seva Avam
Pustahar, U.P., Lucknow and others

RESPONDENT

Date of Decision : 13-02-2009

Acts Referred:

Citation : (2009) 02 AHC CK 0077

Hon'ble Judges : Sunil Ambwani, J

Final Decision : Dismissed

Judgement

Sunil Ambwani, J.—Heard learned Counsel for the petitioner and learned Standing Counsel.

2. The petitioner was selected as Aangan Bari Karyakartri, Bal Vikas Pariyojana Village Saunghat Distt. Basti in I.R.D.P. at Aangan Bari Centre, Mahudar. Her appointment was cancelled on the ground that the income certificate on which she had placed reliance, to prove that she is a person living below poverty line, was subsequently cancelled by the Tehsildar.

3. The Tehsildar had issued notice to the petitioner and had found that the petitioner had made a false statement before him that her husband and fatherinlaw did not have any land and are unemployed. Infact her fatherinlaw and her husband have 0.71 hec. land, a pucca house and motor cycle and that her fatherinlaw is the Pradhan of the same village in which Aangan Bari Centre is situate. The petitioner challenged the order of the Tehsildar dated 6th June, 2008 on the ground that she was not heard and then filed a Writ Petition No. 21477 of 2008 in which the High Court quashed the order dated 19.4.2008 on 29.4.2008 on the ground that she was not given an opportunity of hearing. The Tehsildar thereafter, issued a notice to her and has passed a fresh order in which he found on the statement of the petitioner and evidence collected by him that the family of Smt. Suman Devi has monthly income of more than Rs. 1650/. The application dated 5.5.2008 was accordingly disposed of and the order dated 19.4.2008 was

maintained.

4. The petitioner's appointment as Aangan Bari Karyakartri was cancelled by the Bal Vikas Pariyojana Adhikari on the ground that the Tehsildar has now passed from order after hearing the petitioner and after making enquiries and that since she had made a false declaration that she was living below poverty line, she was not eligible to be considered for appointment as Aangan Bari Karyakartri.

5. Learned Counsel for the petitioner would submit that the order by which the petitioner's income certificate was cancelled is illegal, arbitrary and cannot be sustained. There is no such restriction that the daughterinlaw of the Village Pradhan cannot be appointed. The Government order dated December 16th, 2003 does not exclude the daughterinlaw of the Pradhan from appointment as an Aangan Bari Karyakartri. He would further submit that the impugned order has been passed without giving opportunity of hearing to her.

6. The petitioner's candidature was based on false certificate that she was living below poverty line. It was found by the Tehsildar after making enquiries and recording her statement that she is daughterinlaw of the Pradhan and that her family has 0.71 hec. land, pacca house and motor cycle with an annual income, which is above the poverty line. Learned Standing Counsel has also pointed out to her statement in which she stated that she is also the only daughter of her parents and has inherited properties from her father.

7. The scheme for appointment of Aangan Bari Karyakartri provided in the Government order dated 16th December, 2003 provides for preference to the widows or divorcees living below poverty line. If no such poor ladies are available, a person with a family income above poverty line may be selected, failing which selection may be made from other eligible persons. Now since the petitioner's certificate that she is living below poverty line has been cancelled and it was found that she had made false declaration and is in fact the daughterinlaw of village Pradhan, no interference is required to be made in the writ petition. Although the scheme does not exclude the daughter and daughterinlaw of the village Pradhan, the appointing authority should not ordinarily consider these direct relatives of village Pradhan from selections. The Court can safely take judicial notice of the fact that ordinarily the village Pradhan with control over most of the resources of the village and with capacity to contest elections is not a person, who lives below poverty line, unless there are exceptional circumstances, if such direct relatives of village Pradhans are kept away from selections, there will be greater transparency and fairness in selections.

8. The writ petition is dismissed.