
(2006) 01 PAT CK 0010
In the Patna High Court
Case No : CWJC No. 4568 of 2004

Sunita Kumari and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 03-01-2006

Acts Referred:

Citation : (2006) 2 PLJR 124

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, the petitioners are aggrieved by their removal from the post of Anganbari Sevika and Anganbari Sahayika respectively of Dariyapur Anganwari Centre under Bhadausi Gram Panchayat in the district of Sheikhpura. It seems that petitioner No. 1 was working as Anganbari Sevika whereas petitioner No. 2 was working as Anganbari Sahayika in the said Centre. The Deputy Development Commissioner in course of inspection of the Centre found them absent and Centre closed, whereupon under his direction dated 26.8.2002, the Child Development Project Officer (CDPO), Sheikhpura cancelled their selection by the impugned order, contained in Memo No. 523 dated 6.9.2002 (Annexure 5). Petitioner No. 1 being aggrieved by the said decision had moved this Court assailing the same in C.W.J.C. No. 5751 of 2003, which was disposed of vide order dated 25.7.2003 (Annexure 6) whereby this Court without going into the merit of the case disposed of the writ petition with liberty to seek remedy before the Collector of the district, who was found to be the appellate authority, if so advised, whereupon the petitioners filed appeal before the Collector, which has been rejected vide order passed by the Collector, Sheikhpura, contained in Annexure 7.

2. Copy of the memo of appeal has not been brought on record. However, learned counsel for the petitioners has produced a copy of the memo of appeal, which has been shown to the learned counsel for the State and a copy of the

same has also been handed over to him and a photocopy of the same is being retained on the record of the present case.

3. Perusal of the memo of appeal shows that the petitioners besides raising objection regarding the power of the DDC/ CDPO also contested on merit against the order of their removal. Learned counsel for the petitioners has submitted that the Collector has simply considered regarding the power of the DDC and has not at all considered the defence of the petitioners on merit against the order of their removal. He also ventured to submit that the DDC/ CDPO had no power in view of the latest Government decision dated 25th September, 2001, contained in Annexure 8.

4. Learned counsel for the State has submitted that there is no substance in the submission of the learned counsel for the petitioners that the DDC/CDPO had no power to hold inspection and pass order. According to him, as per the Government decision dated 25th September, 2001 (Annexure 8) itself, only a control which has been given to Mukhiya is with respect to grant of casual leave or permission to leave station besides that on his recommendation, the payments of remuneration are to be made. Insofar other powers are concerned, as per the said Government decision itself, they continued to remain as per the earlier Government instruction dated 13.6.1998, contained in Annexure 9.

5. I find substance in the said submission of the learned counsel for the State. However, learned counsel for the State has not been able to show that the Collector has considered the defence of the petitioners on merit against the impugned order assailing the validity of the order of their removal in appeal preferred by them.

6. By now it is well settled that the appellate authority is bound to consider each and every aspect and point raised in an appeal.

7. Under such circumstance, this writ petition is allowed and the order of the appellate authority, namely, the Collector, Sheikhpura, contained in Annexure 7, is quashed and the matter is remitted back to the Collector for consideration and disposal of the appeal filed by the petitioners on merit afresh without being prejudiced by the impugned order within four weeks of the receipt/production of a copy of this order. As prayed, let a copy of this order be supplied to the learned Government Pleader No. IV for its compliance.