
(2012) 02 JH CK 0038

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2912 of 2006

Tapati Rani Mandal

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-02-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 2 JCR 207 : (2012) 2 JLJR 311

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Judgement

Hon"ble Mr Justice P.P. Bhatt

1. Petitioner by way of filing this writ petition under Article 226 of the Constitution of India has prayed that the order contained in Memo No.385 dated 17.4.2006, passed by the Deputy Commissioner, Dumka, respondent no.2, terminating the services of the petitioner (Annexure-11) be quashed and set aside.

2. Learned Senior Counsel for the petitioner submitted that the impugned order, terminating the services of the petitioner, was passed in collusion with Nirmal Tuddu, respondent no.9. Learned Senior Counsel for the petitioner further submitted that impugned order dated 17.4.2006 (Annexure-11) is non-speaking order and has been passed in violation of principles of natural justice. Learned Senior Counsel for the petitioner further submitted that Deputy Commissioner, Dumka passed the order in pursuance of the direction given by this Court in W.P. (C) No.2542 of 2005 and rejected the claim of the petitioner. It is submitted that the said Nirmal Tuddu filed a writ petition before this Court challenging the appointment of the present petitioner and in pursuance of the order passed in the said writ petition, the Deputy Commissioner, Dumka passed the impugned order (Annexure-11).

3. Learned Senior Counsel for the petitioner, while referring various documents

annexed to this petition, submitted that petitioner was fulfilling the requisite qualification and requirement for the appointment in question; however, at the instance of said Nirmal Tuddu, the appointment of the petitioner was ordered to be cancelled. It is submitted that the main reason assigned is that the petitioner was not belonged to the local area, which was one of the essential qualifications for the appointment to the post.

4. Learned Senior Counsel for the petitioner, while referring various annexures annexed to this petition as well as rejoinder, pointed out that petitioner was belonging to the local area and the Deputy Commissioner, while considering the question with regard to legality and validity of the appointment in question, did not consider the documents, which have been referred by the learned Senior Counsel for the petitioner.

6. According to the learned Senior Counsel for the petitioner, the order passed by the Deputy Commissioner is in clear contravention of principles of natural justice, as no fair opportunity has been given to the petitioner to submit the required documents. Moreover, the Deputy Commissioner has decided the legality and validity of the appointment on the basis of representation made by Nirmal Tuddu.

7. Learned counsel for the State submitted that Deputy Commissioner has decided the entire issue in pursuance of the order passed by this Court in W.P.(C) No. 2542 of 2005 and since the petitioner was not fulfilling the requisite qualification for the appointment in question, the Deputy Commissioner passed a detailed order and cancelled the appointment of the petitioner.

8. It appears that in another writ petition, filed by the Gram Shiksha Samiti, Primary School, Banka Centre, vide order dated 7.3.2007 an undertaking was given by respondent nos. 8 and 9 that they will stay their hands till further orders are passed by this Court. It appears that various documents, referred by the learned Senior Counsel for the petitioner, which are produced along with this petition, have not been taken into account by the Deputy Commissioner, while passing the order impugned (Annexure-11). Learned counsel appearing for the respondent no.9 submitted that petitioner herself has declared her residential address of West Bengal while accepting appointment and this fact reflects in Annexure-R/9/D to the counter-affidavit filed on behalf of the respondent no.9.

9. In the circumstances, the Deputy Commissioner, Dumka is required to decide this issue de novo taking into account the various documents referred to and relied upon by the petitioner in the present petition and take a fresh decision within stipulated time. For that purpose, petitioner shall file detailed representation annexing the requisite documents in support of her contention. Upon receipt of such representation, the Deputy Commissioner, Dumka shall consider the same and decide the claim of the petitioner, after taking into account all relevant factors, including documents that may be submitted before him, within six weeks thereafter.

10. It is clarified that the petitioner may be given an opportunity of personal

hearing.

11. It appears that the undertaking of respondent nos. 8 and 9 was recorded in the order dated 7.3.2007 in W.P. (S) No. 3099 of 2006 and by virtue of their undertaking, status quo is required to be maintained till outcome of the representation.

12. Respondent no.9 will be also at liberty to submit his representation along with supporting documents.

13. Accordingly, both the writ petitions stand disposed of.