
(2010) 05 JH CK 0072
In the Jharkhand High Court

Unoshi Baski

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-05-2010

Acts Referred:

Citation : (2010) 4 JLJR 594

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—Heard counsel for the parties.

2. The petitioner in this writ application, has challenged the order dated 2.8.2006 (Annexure-8) issued under the signature of District Welfare Officer, Jamtara, whereby her services from the post of Aanganwari Sevika, was terminated. Challenge is also made to the order dated 27.8.2007 (Annexure-10) whereby, the representation of the petitioner was also rejected.

3. From the rival submissions, the admitted facts are as follows:

The petitioner was appointed as Aanganwari Sevika at the Aanganwari Centre at village panjania within the district of Jamtara on 1.7.1991 and thereafter, she continued to render her services. By the impugned order dated 2.8.2006, her service was terminated.

The petitioner challenged the impugned order of her termination by filing a writ application before this Court. While disposing of the writ application vide order dated 1.9.2006, this Court had directed the respondent Deputy Commissioner of the district to reconsider the petitioner's case on the basis of the representation which she had filed and was pending undisposed on the date of the court's order.

It appears that pursuant to the direction of this Court in the earlier writ application, the Deputy Commissioner constituted a three member committee to inquire into the grievance of the petitioner and other related matters relating to

her prayer for her appointment on the post. The petitioner was duly informed about the date of meeting of the three member committee and was given opportunity of being heard.

4. The committee after considering the matter and the explanation offered by the petitioner, took its decision by the impugned order dated 27.8.2007.

5. The petitioner's grievance is that the decision vide the impugned order dated 27.8.2007, which was taken on her representation, was not promptly communicated to her. Rather, the same was communicated to her belatedly by way of a forwarding letter dated 12.01.2008.

The petitioner's further grievance is that even without communicating the decision on her representation, the respondent authorities had already initiated the process of fresh selection.

6. Learned Counsel for the respondent State explains that the representation filed by the petitioner is, in fact, by way of an appeal preferred by her before the Deputy Commissioner who is the Appellate Authority against the impugned order of her termination dated 2.8.2006. Since the impugned order of her termination was not set aside, the post pursuant to the termination of the petitioner's services, had remained vacant. It is also explained that in the light of the allegation received against the petitioner, which had resulted in the termination of the petitioner's services, a fresh mandate of the Aam Sabha was required. A meeting of the Aam Sabha was thereafter convened on 8.8.2007 in which the petitioner had also participated and by a majority decision of the inhabitants of the village, the petitioner's candidature for the post of sevika was disapproved and the candidature of the respondent No. 7 was approved. However, such decision of the Aam Sabha taken on 8.8.2007 and the letter of appointment issued to the respondent No. 7 on that date, was kept in abeyance by the order of the Deputy Commissioner and a fresh Aam Sabha was held on 20.8.2007 in which general notice was issued to the residents of the village to attend the meeting of the Aam Sabha.

Learned counsel would further explain that the resolution adopted by the Aam Sabha in its meeting held on 8.8.2007 was approved and duly adopted by the majority decision of the members present at the subsequent meeting. In the light of the aforesaid developments, the decision on the petitioner's representation was taken on 27.8.2007 rejecting her claim for appointment to the post of Aanganwari Sevika and the same was communicated to the petitioner.

7. As it appears from the explanation offered by the respondent State in the counter-affidavit, after terminating the petitioner's services, a fresh meeting of the Aam Sabha was held for the purposes of specifically assessing the majority opinion as to whether the petitioner should be appointed on the post of Sevika. It also appears that the order of termination of the petitioner's services, was passed not only on account of the allegation received against her pertaining to her conduct in discharge of her duties, but also on the charge that the petitioner

had adopted non-cooperative and defiant attitude in as much as, she had indulged in frequent bickerings with the Sahaika and because of this, the functions of the Aanganwari Centre had come to a standstill. It also appears that the petitioner was given opportunity of being heard not only by the three member committee constituted by the Deputy Commissioner, but also by the Deputy Commissioner himself for deciding on the petitioner's representation. It further appears that since the final decision of the Aam Sabha was invariably to be taken to decide as to whether the petitioner should be appointed on the post of Sevika, a meeting of the Aam Sabha was held in which majority opinion of the Aam Sabha was taken. The petitioner cannot raise any grievance against the holding of the Aam Sabha since she was also allowed to participate in the Aam Sabha and it was her candidature along with the others which was to be considered at the Aam Sabha. The petitioner appears to have lost the trust and confidence of the general populous which is reflected in the majority decision of the inhabitants of the village who had rejected her candidature.

8. It may be noted that in her representation filed by the petitioner pursuant to the liberty granted by the order of this Court in the earlier writ application, the petitioner had prayed before the concerned authority to consider her candidature sympathetically and to allow her again to work on the post. In the context of her prayer, the final decision of the Aam Sabha was invariably necessary. The reasons for rejecting the petitioner's prayer for reconsideration of her case and for re-appointment on the post, has been adequately assigned in the impugned order (Annexure-10).

10. As it appears from the order passed in the earlier writ application, the order dated 2.8.2006 whereby petitioner's service was terminated, was not set aside. A fresh opportunity was though given to the petitioner to file her representation and a corresponding direction was given to the Deputy Commissioner of the district to consider her prayer made in her representation and to dispose of the same by a reasoned and speaking order. The petitioner's earlier grievance that she was not given opportunity of being heard before passing the impugned order of her termination from service, has been adequately redressed by extending such opportunity to her pursuant to the order of this Court and the final decision was taken by the concerned authorities of the respondents and therefore, no fault can be found with the final decision taken by the respondents rejecting the petitioner's candidature for the post.

In the light of the above discussions, I do not find any merit in this writ application. Accordingly, the same is dismissed.