

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (S) No. 1063 of 2008

Shakuntala Devi Petitioner
Versus

1. The State of Jharkhand
2. The Deputy Commissioner, Ranchi
3. The Deputy Development Commissioner, Ranchi
4. The District Programme Officer, Ranchi.
5. The Child Development Project Officer, Tamar, Ranchi
6. The D.C.L.R., Bundu, Ranchi.
7. The Director, Social Welfare, Govt. of Jharkhand, Ranchi.

... ... Respondents

CORAM : HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For the Petitioner : Mr. H.K. Mahato, Advocate
For the Respondents : Mr. Anshuman Kumar, J.C. to Sr. S.C.I.

08/20.12.2013. Challenging orders dated 04.02.2008 and 06.02.2008, the petitioner has approached this court by filing the present writ petition.

2. Heard the learned counsel appearing for the parties and perused the documents on record.

3. The brief facts as disclosed in the writ petition are that, pursuant to Aam Sabha held on 26.4.2007, the petitioner was appointed on the post of Angan Bari Sevika on 07.06.2007. A show-cause notice was issued to the petitioner on 26.12.2007 to which the petitioner submitted her reply. However, by impugned order dated 04.02.2008, the service of the petitioner was terminated and the said decision was communicated by the Child Development Project Officer, Tamar on 06.02.2008.

4. A counter-affidavit has been filed on behalf of the respondents stating as under;

6. "That it is stated that on receipt of complaint petition an enquiry was conducted against the selection of the petitioner for the post of Anganwadi Sewika for Gango Anganwadi Centre.

7. That it is stated that the enquiry officer found that selection of Anganwadi Sewika was done in fraudulent manner as the signature of Gram Pradhan and Treasurer were not genuine.

8. That it is stated that further other manipulation have been discovered. The enquiry officer has recommended for the cancellation of selection of petitioner. The petitioner was issued notice vide letter no. 1517 dated 26.12.2007 along with enquiry report to explain her position.

9. That it is stated that petitioner submitted her explanation on 21.01.2008.

10. That it is stated that on perusal of enquiry report and explanation by the petitioner it was found that actual Aam Sabha did not take place. The petitioner managed in fraudulent manner to get herself selected. Thus, it was decided to cancel her selection as Anganwadi Sevika and order for fresh selection as per government rules by the D.D.C. Ranchi and Deputy Commissioner, Ranchi.”

5. The learned counsel appearing for the petitioner has submitted that, though the petitioner was appointed validly in the proceeding of the Aam Sabha which was held on 26.04.2007, on frivolous allegation, an enquiry was conducted into the matter and the petitioner has been terminated from service on the basis of the inquiry report. The learned counsel has further submitted that in such a situation, the Deputy Commissioner is not the competent authority, rather the Director, Department of Social Welfare alone would be the competent authority to pass an order of termination of service, which admittedly has not been done in the present case and therefore, impugned orders dated 04.02.2008 and 06.02.2008 are liable to be quashed. To fortify his contention, learned counsel appearing for the petitioner has relied on orders passed by this

Court in W. P. (S). No. 1100/08, W. P. (S) No. 1103/08 and W. P. (S) No. 1156/08.

6. As against the above, the learned counsel appearing for the respondents has disputed the claim of the petitioner and submitted that in course of enquiry, it was found that in the alleged proceeding dated 26.04.2006 of Aam Sabha, several persons who died or whose fathers' name have been wrongly recorded, allegedly put their signatures in the proceeding of the Aam-Sabha. In view of the enquiry report dated 20.12.2007, by impugned order dated 04.02.2008, the service of the petitioner has been terminated.

7. On perusal of the documents on record, I find that a show-cause notice was issued to the petitioner on 26.12.2007 and after considering the reply of the petitioner and the enquiry report dated 20.12.2007, the impugned order dated 04.02.2008 has been passed and therefore, I find that this is not a case in which sufficient opportunity to defend herself was not afforded to the petitioner. From the enquiry report dated 20.12.2007, I find that a person namely, Sukhdeo Singh Munda, who had already died, allegedly put his signature at Sl. No. 27. I further find that a person named Mansa Munda has also put his signature at Sl. no. 44 and it has been found that he is a fictitious person. Several other irregularity have been found in course of the enquiry, and a report was submitted on 20.12.2007. Fraud vitiates everything, even solemn proceeding of the court is vitiated by the fraud and mis-representation played by a party. From the enquiry report dated 20.12.2007 it is apparent that the petitioner secured appointment on the basis of the alleged decision of Aam Sabha which is vitiated by fraud. I am of the view that the petitioner's service has rightly been terminated.

8. Referring to the contention raised by the learned counsel for the petitioner that only the Director, Department of Social Welfare,

would be the competent authority to pass order of termination, I am of the opinion that in a case where fraud has been detected, the plea of jurisdiction can not be entertained and therefore, I find no substance in the contention raised by the learned counsel for the petitioner that the impugned order dated 04.02.2008 suffers from jurisdictional error. Referring to the orders passed by this Court in the cases referred hereinabove, I find that in those cases, a plea of fraud was not raised.

9. In view of the aforesaid, I find no merit in the writ petition. Accordingly, it is dismissed.

10. Consequently, I.As are also disposed of.

(Shree Chandrashekhar, J.)

Manish