

W.P.(C) No. 363 of 2016**BEFORE****THE HON'BLE MR. JUSTICE N. KOTSWAR SINGH*****(Oral)***

29.06.2017

Heard Mr. Ch. Dhananjoy, learned counsel appearing for the petitioners and Ms. Ch. Sundari, learned G.A. appearing for the State respondents. None appears for the private respondents, even though as per the certificate issued by the Sub-Postmaster, New Lamka the registered letters which were sent to the private respondents had been duly delivered. This indicates that though they have received the notice, they have opted not to appear before this Court and contest the writ petition. Accordingly, this petition is being disposed of without hearing them.

[2] The case of the petitioners is that they were appointed as Anganwadi Workers and Helpers on various dates in 1997, 2008 and 2010 by the competent authorities and accordingly, have been serving in their respective posts in Tuolbung, Taithou, Parbung, and Sipuikawn villages respectively. They submit that they have been rendering their services regularly and also getting salaries regularly. However, to their shock and surprise, the authorities have issued an order dated 01.03.2016 purportedly on the recommendation of a DPC appointing the private respondents for the same posts and the same places where the petitioners are already serving as Anganwadi Workers and Helpers though their appointments have not been set aside or cancelled. Therefore, being aggrieved by issuance of the aforesaid order dated 01.03.2016 appointing the private respondents to the posts which are already held by the petitioners, the petitioners have filed this writ petition challenging the aforesaid order dated 01.03.2016. This Court has also noted that writ petition was moved on 18.05.2016 and this Court had passed an interim order directing that all the petitioners may not be disturbed without leave of this Court till the next returnable date and such interim order has been continued till then. In other words, the petitioners have continued to serve in their respective posts as Anganwadi Workers and Helpers.

[3] This writ petition is resisted by the State respondents by filing affidavit-in-opposition in which the stand has been taken that the petitioners had left the residences of their respective villages for which they were appointed as Anganwadi Workers and Helpers and as per the instructions issued by the Ministry of Women and Child Development relating to appointment of the Anganwadi Workers and Helpers under the ICDS Scheme under which the petitioners were appointed, as contained in the Ministry's letter dated 22.12.2011 it is required that those persons who are appointed as Anganwadi Workers and Helpers should be local villagers and acceptable by the local community. It has been contended that in the present case, since all the petitioners had left their respective residences/villages for which they were appointed, the new appointments have been made in favour of the private respondents to replace the petitioners in terms of the aforesaid instructions issued by the Ministry of Women and Child Development. Accordingly, it has been submitted that there is no illegality in issuance of the impugned order dated 01.03.2016 as the petitioners are no more residents of the villages for which they were appointed as Anganwadi Workers and Helpers.

[4] Mr. Ch. Dhananjoy, learned counsel for the petitioners have vehemently argued before this Court that the petitioners are the original villagers or residents and have not left the respective villages and there was no inquiry conducted prior to issuance of the impugned order for the determination as to whether the petitioners had left the villages and in absence of such findings, the petitioners' services cannot be dispensed with and replaced by others as has been done in the present case by issuing an impugned order dated 01.03.2016.

[5] Mr. Ch. Dhananjoy, learned counsel appearing for the petitioners submits that unless there is a finding given to the effect that the petitioners had left their original respective villages, their services cannot be dispensed with. It has been also noted that there is nothing on record to show by way of pleading or otherwise, that any prior inquiry was held before dispensing with the services of the petitioners and appointing the private respondents in their places. Accordingly, this Court would hold that appointment of the private respondents in place of the petitioners without making any inquiry or giving show cause notices to the petitioners cannot

be sustained. However, since the requirement under the scheme is that a person who is appointed as Anganwadi/Helper should normally be the original resident of the village concerned as otherwise, it would be difficult to discharge the duties and functions under the scheme, it is desirable that the Anganwadi Workers and Helpers be the residents of the villages for which he/she has been appointed.

[6] Accordingly, in view of the facts and circumstances of the case, while allowing the present writ petition, this Court directs that an inquiry be conducted by the concerned S.D.O. of the District under which the petitioners are functioning to find out whether the petitioners are still living in their original respective villages for which they were appointed as Anganwadi Workers and Helpers and if it is found that they are still residing in their original villages, there is no question of replacing them by appointing the private respondents by issuing the impugned order dated 01.03.2016 and to that extend the impugned order dated 01.03.2016 cannot be given effect to. However, if there is a finding that the petitioners had left their original respective villages, it would be open to the respondent authorities to take appropriate steps or actions in accordance with law.

With the above observation and direction, the writ petition is allowed.

A copy of this order be furnished the learned counsel for the parties.

JUDGE

Bipin

