

Court No. - 10

Case :- WRIT - A No. - 13005 of 2002

Petitioner :- Smt. Lalmati Devi

Respondent :- The Chief Development Officer And Others

Counsel for Petitioner :- R.B. Tripathi, A.P. Tiwari, Adya Prasad Tewari

Counsel for Respondent :- C.S.C.

connected with

Case :- WRIT - A No. - 28538 of 1999

Petitioner :- Association Of Anganbari Karyakartri And Others

Respondent :- Chief Development Officer And Others

Counsel for Petitioner :- N.K. Pandey, S.K. Gaur

Counsel for Respondent :- C.S.C.

and

Case :- WRIT - A No. - 51433 of 2003

Petitioner :- Smt. Kalyani Shahi And Another

Respondent :- State of U.P. and Others

Counsel for Petitioner :- R.B. Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra, J.

1. These three writ petitions arise of same controversy and by the order impugned dated 29/30.12.1997, the services of various Anganbari Karyakatri have been terminated on the ground that despite directions issued to them not to issue appointment letters, they had issued the appointment letters appointing some associates.

2. This Court passed the following order on 31.08.2022:

"Heard learned counsel for the petitioner and learned

standing counsel for the State-respondents.

Learned counsel for the petitioner submits that controversy involved in the present petition has already been decided by this Court vide order dated 8.4.2016 in Writ-A No. 2031 of 1998, therefore, this petition may also be disposed of on the same terms and conditions.

Learned Standing Counsel prays for and is granted one week time to go through the aforesaid judgment and order and assist the Court.

List this case on 7.9.2022 alongwith connected matter.

Learned counsel for the petitioner is directed to provide the copy of writ petition to learned Standing Counsel within 48 hours."

3. Learned Standing Counsel, pursuant to the aforesaid order, has come up with the stand that there is another order passed on 03.01.1998, which has not been challenged. The said order is attached with the counter affidavit which, in fact, is an order passed in consequence of order impugned dated 29/30.12.1997, by which appointments of Anganbari Karyakatri were cancelled.

4. I find that the facts of the present cases are exactly identical to the facts of Writ A No. 2031 of 1998 (Association of Anganbari & Others vs. Chief Development Officer & Others), which was allowed by this Court by the following order dated 08.04.2016:

"Petitioners allege that pursuant to the post advertised for Anganwadi Karyakarti, petitioners applied and were selected. Appointment letters were also issued to them. Subsequently, such appointments have been cancelled vide order impugned dated 29/30.12.1997 on the ground that certain complaints with regard to holding of selection had been received and directions were issued not to issue appointment letters but in teeth of such orders, appointment letters were issued to petitioners as such, they are being cancelled.

Aggrieved by the said orders, this writ petition was filed in the year 1998 and the operation of the orders, under challenge, were stayed and petitioners are continuing ever since then.

The order impugned has been assailed on the ground that no infirmity in the selection proceedings have been pointed out and even otherwise, the orders carrying civil consequences could not have been passed without affording an opportunity of hearing, in the matter, to the petitioners. Violation of principles of natural justice, consequently, is alleged.

Although, a counter affidavit has been filed in the matter but it is not in issue that no opportunity of hearing was afforded to the petitioners before passing the order impugned.

Consequently, writ petition succeeds and is allowed. Order dated 29/30.12.1997 is set aside. It shall, however, be open for the respondents to pass a fresh order, in accordance with law, after affording an opportunity of hearing to the petitioners in the matter."

5. This Court finds that identical order of the same date was quashed only on the ground that there is violation of principles of Natural Justice and the respondent No. 3 was set at liberty to pass a fresh order, in accordance with law, after providing opportunity of hearing to the petitioners.

6. The present writ petition being identical in nature, the petitioners cannot be treated differently.

7. All the writ petitions succeed and are **allowed**.

8. The order impugned dated 29/30.12.1997 passed by respondent No. 1, Chief Development Officer, Gorakhpur is **set aside**.

9. It shall be open for the respondents to pass a fresh order in accordance with law, after affording opportunity of hearing to

Anganbari Karyakatri involved in these writ petitions.

Order Date :- 12.10.2023

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