

Court No. - 34

Case :- WRIT - A No. - 14237 of 2023

Petitioner :- Smt. Manju Devi

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Raj Kishore Yadav, Ashutosh Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

1. Heard learned counsel for the petitioner and Sri Rahul Malviya, learned Standing Counsel for the State-respondents.
2. The petitioner's appointment as Anganwadi worker made in the year 1999, which was subject to renewal periodically, has come to be finally terminated on the ground that she obtained her appointment by submitting forged High School marksheet in which her date of birth was recorded as 10.04.1976 whereas her correct date of birth was 10.04.1980. She was issued with the show cause notice to which she submitted reply by annexing her high school certificate and showed her year of birth to be as 1980. Verification was made from the UP Madhyamik Shiksha Parishad, U.P., Prayagraj and it was found in the verification that petitioner's date of birth in the records of Board is 10.04.1980.
3. The original records like domestic inquiry proceeding undertaken with the issuance of show cause notice and the original records submitted by the petitioner at the time when she applied for the post in question, have been placed before the Court.
4. From the original records, it clearly transpires that she filled up the application form for the post in question declaring her date of birth to be 10.04.1976. This form was filled up in her own signature. The form accompanied the High School certificate showing her date of birth as 10.04.1976 duly certified by S.K. Tripathi, B.Sc. MBBS Medical Officer, for SBI and LIC and then placed at Badshahpur, Jaunpur. He declared to have also issued health certificate and also certified the Intermediate marksheet.
5. Thus, it is clear that petitioner very consciously filled up her application form showing her date of birth as 10.04.1976 and also submitted the mark-sheet which was apparently a fabricated one.

6. The law is well settled that fraud vitiates the most solemn of the proceedings (*Shristi Dhawan vs. Shaw Bros (1992) 1 SCC 534*).

7. Petitioner's counsel could not dispute her application submitted at the time of selection and appointment. Thus, the selection itself stood vitiated for fraud. An outcome of fraud is bound to be void and what is void cannot create any right. In the case of *Meghmala & ors vs. G. Narasimha Reddy & ors; 2010 (8) SCC 383*, the Supreme Court vide paragraphs 33 & 34 has held thus:

"33. Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression "fraud" involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide Dr. Vimla Vs. Delhi Administration AIR 1963 SC 1572; Indian Bank Vs. Satyam Fibres (India) Pvt. Ltd. (1996) 5 SCC 550; State of Andhra Pradesh Vs. T. Suryachandra Rao AIR 2005 SC 3110; K.D. Sharma Vs. Steel Authority of India Ltd. & Ors. (2008) 12 SCC 481; and Regional Manager, Central Bank of India Vs. Madhulika Guruprasad Dahir & Ors. (2008) 13 SCC 170).

34. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the court. (Vide S.P. Changalvaraya Naidu (supra); Gowrishankar & Anr. Vs. Joshi Amba Shankar Family Trust & Ors. AIR 1996 SC 2202; Ram Chandra Singh Vs. Savitri Devi & Ors. (2003) 8 SCC 319; Roshan Deen Vs. Preeti Lal AIR 2002 SC 33; Ram Preeti Yadav Vs. U.P. Board of High School & Intermediate Education AIR 2003 SC 4628; and Ashok Leyland Ltd. Vs. State of Tamil Nadu & Anr. AIR 2004 SC 2836)."

7. In the circumstances, I do not find any good ground to interfere with the order dispensing with the services of the petitioner.

8. Petition fails and is, accordingly, dismissed.

9. Original records are returned to the learned Standing Counsel, Mr. Rahul Malviya.

Order Date :- 26.10.2023

P Kesari