

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**CWP No.3131 of 2020****Decided on: 7th September, 2026**

Satya Devi

....Petitioner

versus

State of H.P. and Others

...Respondents

*Coram****Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.******Whether approved for reporting?¹*****For the petitioner: Mr. Ashwani Kaundal, Advocate.****For the respondents: Mr. Amit Kumar Chaudhary,
Deputy Advocate General.****Jiya Lal Bhardwaj, Judge (Oral)**

The petitioner feeling aggrieved by the order dated 14.08.2020 passed by respondent No.4, whereby her services have been terminated as ASHA worker, has approached this Court *inter alia* on the grounds that the order is illegal, arbitrary and against the principles of natural justice.

2. It has been averred in the petition that neither any show cause notice was issued to her nor she was afforded with an opportunity of being heard in the matter and her services came to be terminated in a most unceremonious manner, which is totally unknown to law. It has further been averred that there is neither any complaint against her work and conduct nor any show cause

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

notice was issued to her inasmuch as nothing is reflected from the perusal of the termination order, as to why and under what circumstances her services came to be terminated and as such prayed for quashing the said order passed by respondent No.4.

3. This Court vide order dated 25.08.2020, had stayed the termination order dated 14.08.2020 (Annexure P-3) and further directed the respondents to forthwith reinstate the petitioner in service, however, the re-engagement of her services shall be subject to the outcome of the writ petition. The respondents did not bother to file either application for vacation of stay or reply to the petition till April, 2026. This Court had granted four weeks further time to file reply to the petition on 17.03.2026. The reply to the petition was filed on 21.04.2026.

4. In the reply, many preliminary submissions have been made *inter alia* on the grounds that neither any legal, legitimate and enforceable right of the petitioner has ever been infringed and denied nor she is aggrieved of any actions on their part in any manner. The petitioner has tried to mislead this Court by concealing the material facts, for the reasons best known to her and the petitioner is guilty of *suppressio veri and suggestio falsi*. The petitioner was continuing as ASHA worker under the National Health Mission after having been selected and engaged by respondent No.

4 vide Memorandum dated 21.11.2014 (Annexure P-2). In the year 2018, a reference was received from the Chairperson, Child Welfare Committee, Solan to the office of respondent No. 2 vide letter dated 26.10.2018 with a serious concern over a heinous crime of sexual abuse committed on a child in presence of the petitioner and her husband with further observations that non-reporting of such serious matter by a health worker calls for a penal action against her with a further request to hold a formal inquiry against the petitioner. It was also proposed to undertake appropriate departmental proceedings against her, so that the perpetrators of such crime are brought to book. It has further been averred that respondent No.3 had referred the matter for inquiry to respondent No.4 and respondent No. 4, after conducting an inquiry by constituting a committee and also associating the petitioner, her husband as well as members of the Gram Panchayat concerned had submitted a detailed inquiry report to the Chief Medical Officer, Solan, vide letter dated 06.12.2018. On the basis of the detailed inquiry report furnished by respondent No.4, he was directed to convene a meeting of the Appointment Board of Accredited Social Health Activists (ASHA) vide letter dated 04.02.2019 written by respondent No.3 and place the entire record pertaining to the wrong done by the petitioner and asked to take decision accordingly, being the

appointing authority of the petitioner as ASHA worker. The Selection Board had taken action on the basis of the report and statements with specific observations that the petitioner's untoward act with minor orphan child was committed with the connivance of her husband and she was indulged in torturing the child mentally and physically and was further indulged in very serious and heinous crime of abortion of a foetus and subsequently burying the same. With these specific findings, it is submitted that she was aware of whatever was going on and it appeared that she not only knew about the incident, but was an active participant in the whole episode. The Board recommended initiating requisite disciplinary action within the ambit of existing rules and regulations and also under the prevailing law.

5. The report was forwarded to the Mission Director, National Health Mission (in short 'NHM') seeking necessary permission to proceed further in the matter. In the meanwhile, repeated references were also being received by respondent No.3 from the Himachal Pradesh Commission for Protection of Child Rights, Shimla, as well as Child Welfare Committee, Solan, to initiate disciplinary action against the petitioner. Subsequently, against a specific query, the Child Welfare Committee, Solan, vide letter dated 24.02.2020, conveyed that the petitioner was also arrested and a

case FIR No.79 of 2018, under Sections 376, 506 and 312 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act') was registered against her, wherein challan was presented in the Sessions Court, Solan, where the matter is sub-judice. The Deputy Commissioner, Solan, had recommended termination of the services of the petitioner and further this renders unbecoming of persons dealing with general public by the petitioner and an appropriate disciplinary action may be initiated against her.

6. On the basis of the report and recommendations submitted, it was, in turn, conveyed by the Mission Director, NHM, to respondent No.3, vide letter dated 31.03.2020 to terminate the services of the petitioner and advertise the vacancy, so created. The above directions were forwarded by respondent No.3 to respondent No.4, vide letter dated 14.08.2020, with a direction to ensure compliance with the order regarding termination of the petitioner and advertise the vacancy so created. Accordingly, the services of the petitioner as ASHA worker were ordered to be terminated by respondent No.4, vide letter dated 14.08.2020 (Annexure P-3)/ Annexure R2/VIII), in a just and proper manner.

7. The petitioner filed rejoinder to the reply and controverted the averments made therein. The petitioner has also

placed on record the copy of the judgment dated 25.05.2026 passed by the learned Additional Sessions Judge, Fast Track, Special Court (POCSO), Solan, District Solan, H.P. (Annexure P-4), whereby the petitioner has been acquitted of the charges.

8. I have heard the learned counsel for the parties and also perused the record carefully.

9. A bare perusal of the impugned order of termination dated 14.08.2020 (Annexure P-3) does not reveal that on what ground, the services of the petitioner were terminated. The petitioner has specifically averred in the petition that the impugned order has been passed in a highly illegal, arbitrary manner and without observing the principles of natural justice. It has further been averred that no reason has been assigned in the impugned termination order.

10. The petitioner has also taken a specific plea in the grounds that no show cause notice was issued to her before terminating her services. The respondents in the reply have not disputed the fact that the petitioner was never issued with any show cause notice before terminating her services. It is by now settled in a catena of judgments of the Hon'ble Supreme Court that in case of any order, which has civil/evil consequences, the least which is expected of the employer, is to issue a show cause notice before

terminating the services. Since the petitioner has not been issued any show cause notice before terminating her services, the impugned order under challenge does not sustain in the eyes of law.

11. This Court had stayed the termination order dated 14.08.2020 passed against the petitioner on 25.08.2020, when the respondents were directed to forthwith reinstate her services. However, re-engagement of her services shall be subject to the outcome of the writ petition. The respondents did not care to file any reply and it is only on 21.04.2026, reply to the petition has been filed, when the Court had granted four weeks' time to file the same on 17.03.2026. No doubt, the allegations against the petitioner are serious, but at the same time, before terminating her services, she was to be heard in the matter and since no show cause notice was issued to her or the report of the inquiry was supplied to her, the action on the part of respondent No.4 to terminate her services simply as per the desire expressed by the Deputy Commissioner, cannot sustain in the eyes of law. The Hon'ble Supreme Court in ***Canara Bank and others vs. Debasis Das and others***, (2003) 4 SCC 557 has held that in the absence of a notice of kind and such reasonable opportunity, the order passed becomes wholly vitiated. The relevant para of the judgment reads as under:-

"15. The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as audi alteram partem rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way into the "Magna Carta". The classic exposition of Sir Edward Coke of natural justice requires to "vocate interrogate and adjudicate". In the celebrated case of Cooper v. Wandsworth Board of Works, the principle was thus stated: (ER p.420)

"[E]ven God himself did not pass sentence upon Adam before he was called upon to make his defence. 'Adam' (says God), "'where art thou? Hast thou not eaten of the tree whereof, I commanded thee that though shouldest not eat?"

Since then the principle has been chiselled, honed and refined, enriching its content. Judicial treatment has added light and luminosity to the concept, like polishing of a diamond."

12. Learned Deputy Advocate General has vehemently argued that since the charges against the petitioner are very serious, no fault can be found with the order, whereby her services have been terminated. However, the said submission cannot be

accepted for the reason that before terminating her services, the respondents were to at least issue a show cause notice to her. Admittedly in the present case, no show cause notice was issued to the petitioner, and therefore, this Court without commenting on the merits of the case, is setting aside the termination order only on the ground of the principles of *Audi Alteram Partem*.

13. In the present case, since no notice was issued to the petitioner before terminating her services, the impugned order has been passed without adhering to the principles of natural justice and thus, the order is vitiated.

14. Learned counsel for the petitioner has vehemently argued that since the petitioner has been acquitted of the criminal charges, the allegations against her were baseless. However, this Court is not considering the said plea at this juncture for the reason that the Court is only quashing the impugned order on the ground that no reasons have been assigned in the impugned order and no show cause notice was issued to the petitioner prior to terminate her services.

15. Consequently, the present petition is allowed and the impugned order of termination dated 14.08.2020 (Annexure P-3) is quashed and set aside. However, the respondents are at liberty to take appropriate action against the petitioner after observing the

principles of natural justice and also supplying the copy of the material.

16. The petition is accordingly disposed of. No order as to costs. Pending applications, if any, shall also stand disposed of.

7th September, 2026
(naveen)

(**Jiya Lal Bhardwaj**)
Judge