

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 3352 of 2011**

- Kiran Jaiswal W/o Ashok Kumar, Occ. Ex. Rojgar Sahayak, In The Deptt. Of Panchayat Chakarbhata, Janpad Panchayat Mungeli, R/o Vill. Chakarbhata, Tah Mungeli, Distt. Bilaspur, Cg

---- Petitioner**Versus**

1. State Of Chhattisgarh & Anr.
3. Chief Executive Officer Jila Panchayat Bilaspur, Near Collector Office, Distt. Bilaspur, Cg
4. Collector Distt. Bilaspur, Cg

--- Respondents

For Petitioner:	Shri Akhilesh Kumar, Advocate.
For Respondents No. 1 & 3/ State:	Shri R. K. Jaiswal, PL.
For Respondent No. 2:	Shri Pawan Kesharwani, Advocate

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

14.12.2017

1. The Petitioner has filed this petition invoking jurisdiction under Article 226 of the Constitution of India by assailing the order impugned dated 19.05.2011 passed by respondent No. 2, the Chief Executive Officer, Jila Panchayat, Bilaspur, by which, services of the petitioner has been terminated.

2. Shri Akhilesh Kumar, learned counsel for the petitioner submits that the petitioner has been appointed on the post of *Rojgar Sahayak* on 02.07.2007 by Chief Executive Officer, Jila Panchayat Bilaspur. By virtue of the said appointment order, she was appointed on contract basis for a period of one year. It is submitted by him that without issuing any show cause notice, the order impugned, which is stigmatic in nature, has been passed, therefore, deserves to be set aside.

3. On the other hand, Shri Pawan Kesharwani and Shri R. K. Jaiswal,

counsel for the respondents have supported the order impugned and stated that since the petitioner's appointment was purely on contract basis and that too was only for a period of one year, any prior notice as such, was not required before passing the order impugned. It is stated further by them that certain complaints of serious nature were made against the petitioner by the villager of Chakarbhata, District Mungeli and on the basis of the said complaint, a committee was constituted and the said committee has enquired into the matter in which it was found that the allegations leveled against the petitioner were true and correct and based upon the recommendation by the said committee, the order impugned has been passed. The order impugned is, therefore, validly passed and does not require to be interfered.

4. I have heard learned Counsel for the parties and perused the entire record carefully.

5. The Petitioner – Kiran Jaiswal was appointed for the post of *Rojgar Sahayak* vide order dated 02.07.2007 (Annexure P-1) on contract basis for a period of one year. Perusal of the record would show that no further appointment order, like 02.07.2007, was issued. Therefore, it appears that her appointment as such has not been extended. Be that as it may, her services have been terminated vide order impugned dated 19.05.2011 owing to her negligence as found with regard to construction of new tank sanctioned under the Scheme, known as Mahatma Gandhi National Rural Employment Guarantee Act (in short MGNREGA). It is not clear from bare perusal of the order impugned that what are those irregularities or negligencies committed by the petitioner which led to her dismissal as such. But, from perusal of the returns and the annexures attached to it

would, however, show that certain complaints (Annexure R/2-1) of serious nature were made by the residents of village Chakarbhata against the petitioner and in order to examine the correctness of the aforesaid complaints, a committee was constituted. The said committee upon its enquiry has found that the allegations leveled against the petitioner were true and submitted its enquiry report dated 16.05.211 (Annexure R/2-2) recommending for the petitioner's dismissal from service. Acting upon the said recommendation, the order impugned has been passed.

7. It is not in dispute that the petitioner has been appointed on contract basis for a period of one year. It is also not in dispute that no opportunity was given to the petitioner before passing the order impugned of discharge. I am not going to determine the question whether any opportunity is necessary or not before passing an order impugned. But, the manner in which the order impugned has been passed holding that the petitioner is found negligent in construction of new tank sanctioned under the said Scheme, is unequivocally stigmatic in nature. Once this is recorded in the order impugned as disclosed by the respondents in their returns, it cannot be said that there is no stigma attached to the impugned order of discharge. Once there is stigma, the principle is well settled, an opportunity has to be given before passing any order. The order impugned under such circumstances is, therefore, liable to be and is hereby set aside.

8. In the result, the petition is allowed. However, it is without prejudice to the rights of the respondent, if any, concerning to the services of the petitioner. No order as to costs.

Sd/-

(Sanjay Agrawal)
JUDGE