

HON' BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON' BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL No.934 of 2017

Date: 10.10.2017

Between:

N. Krishna Kumari

..Appellant

And

The State of Andhra Pradesh, rep. by its
Principal Secretary, Women and Child Welfare Department,
Secretariat, Guntur and others.

..Respondents

Counsel for the petitioner: Sri G. Tuhin Kumar

Counsel for the respondents: Government Pleader for Women &
Child Welfare.

The Court made the following:



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JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Order dated 24.01.2017 in W.P.No.23804 of 2007, whereby the learned single Judge dismissed the said writ petition, is assailed in this writ appeal.

We have heard Mr. G. Tuhin Kumar, learned counsel for the appellant and the learned Assistant Government Pleader for Women and Child Welfare Department (A.P).

The appellant is an Anganwadi worker working as such for about 20 years. A show cause notice was issued to her on 14.06.2006 calling for her explanation on the allegation that she has not been running the Anganwadi Center in a proper manner. The appellant submitted her explanation. As her services were terminated by order dated 03.11.2007, the appellant has filed the aforementioned writ petition, assailing the said proceedings.

A counter-affidavit was filed on behalf of the respondents wherein it was stated that the impugned order was preceded by a show cause notice and that as the appellant has committed several irregularities in functioning as Anganwadi worker, in the interests of the beneficiaries, she was removed. The learned single Judge based on the averments in the counter-affidavit, and also the record containing the allegations against the appellant, dismissed the writ petition.

At the hearing, learned counsel for the appellant submitted that his client did not receive show cause notice or the detailed enquiry

report of the Project Director, District Women and Child Welfare Project, Ongole submitted to the District Collector/Chairman of the Committee, Women and Child Welfare Project, Prakasam District, which was the basis for her removal.

Though the learned Assistant Government Pleader submitted that the show cause notice was served on the appellant, no material is produced in support thereof. This apart, a perusal of the record shows that the Project Director, District Women Child and Development Agency, Ongole submitted a detailed report enumerating various irregularities allegedly committed by the appellant. The order of removal dated 03.11.2007 contains a reference to the said report. Evidently this report is made basis for removing the appellant from the post of Anganwadi Worker. Admittedly the said report has not been supplied to the appellant. The appellant claimed that she has not received any show cause notice and she had no opportunity of submitting her explanation.

In Nisha Devi vs. State of Himachal Pradesh and others¹ while dealing the plea of violation of principles of natural justice raised by an Anganwadi Worker, the Supreme Court held as under:

“4. In the course of arguments addressed before us, the fervent submission of counsel of the Appellant that she was not afforded any opportunity of being heard has not been controverted, inasmuch as it has been contended that the Report of the Tehsildar was based on revenue records, which, therefore, was presumed to be correct. The High Court has acted upon this one sided or unilateral Report of the Tehsildar in arriving at the conclusion that the Appellant indeed had an income in excess of Rupees twelve thousand

¹ (2014) 16 Supreme Court Cases 392

per annum and, accordingly, was ineligible for appointment as an Anganwadi Worker.

5. Trite though it is, we may yet again reiterate that the principle of *audi alteram partem* admits of no exception, and demands to be adhered to in all circumstances. In other words, before arriving at any decision which has serious implications and consequences to any person, such person must be heard in his defence. We find that the High Court did not notice the violation and infraction of this salutary principle of law. Accordingly, on this short ground, the impugned Judgments and Orders require to be set aside, and are so done. The matter is remanded back to the Divisional Commissioner for taking a fresh decision after giving due notice to the Appellant and affording her an opportunity of being heard. The Divisional Magistrate, Kullu, shall complete the proceedings expeditiously, and not later than six months from the date on which a copy of this Order is served on him.”

The facts in the present case appear to be similar to that in Nisha Devi, where the Supreme Court set aside the order of removal of Anganwadi Worker on the ground that she was not afforded an opportunity of being heard. In our opinion, before the appellant was removed, respondent No.2 ought to have ensured that the show cause notice was served on the appellant along with the enquiry report and the explanation if any of her is considered before any order adverse to her interests is passed. As respondent No.2 has failed to follow this procedure, the order dated 03.11.2007 impugned in the writ petition is liable to be set aside.

Since the appellant has been furnished with a copy of the enquiry report, as part of material in the present case, she is permitted to submit her explanation within one month from today. On receipt of such explanation, respondent No.2 shall consider the same. If the appellant seeks an opportunity of personal hearing, respondent No.2 shall afford

such an opportunity and pass fresh order thereafter. Needless to observe that till the above mentioned process is completed, the appellant shall be continued as Anganwadi worker.

The writ appeal is accordingly allowed setting aside the order dated 03.11.2007 of the 2nd respondent, as well as the order dated 24.01.2017 of the learned single Judge in W.P.No.23804 of 2007. No order as costs.

As a sequel to disposal of the writ appeal, W.A.M.P. No.1821 of 2017 is disposed of as infructuous.

C. V. NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

Date: 10.10.2017.
Bss/ Gk.



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(per Hon'ble Sri Justice C. V. Nagarjuna Reddy)



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