

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.2043 of 2012

In/and

WRIT PETITION No.2165 of 2012

ORDER:

Petitioner filed this Writ Petition challenging the proceedings in Memo No.261/A3/2011 dt.04-01-2012 of the Project Director, District Women and Child Development Agency, Srikakulam on the basis of note order dt.03-01-2012 of the District Collector and Chairman for recruitment of Anganwadi Worker/Anganwadi Helper Selection Committee, Srikakulam District.

2. A notification to fill up the post of Anganwadi Workers in Krishnapuram village was issued by the 1st respondent. The petitioner applied for the same and was appointed vide proceedings No.18 of 2008 dt.16-05-2011 of the 1st respondent. Thereafter a complaint was filed by the Ex.Member of the Legislative Assembly of that area by name G.Shamsunder Sivaji that petitioner was not a native of the said village.

3. On the basis of the said complaint, an enquiry was conducted by the Revenue Divisional Officer, Tekkali (3rd respondent). In that enquiry, it was alleged against the petitioner that she was not a native of Krishnapuram village and her name was enrolled in the voters list of Korabadi village, that she had changed her residence from Korabadi village, which was

the village where her husband used to reside to Krishnapuram after her selection as mini Anganwadi Worker.

4. Petitioner appeared in the enquiry and stated that originally her native village is Kondakaputti village; after her marriage, she and her husband left Korabadi village, the native village of her husband, to Krishnapuram, resided in a rental house initially and later purchased a thatched house under an unregistered document in 2006 and got her ration card transferred to Krishnapuram village subsequently. Her husband also deposed likewise.

5. However, the 3rd respondent opined that the petitioner produced a false nativity certificate that she was the native of Krishnapuram village and on that basis recommended to the 4th respondent to terminate the services of petitioner and thereafter on 03-01-2012, the 4th respondent directed termination of her services as Mini Anganwadi Worker of Krishnapuram village and consequent order was issued by 1st respondent on 04-01-2012, which was impugned in the Writ Petition.

6. Learned counsel for petitioner contended that no notice was given to the petitioner before passing the impugned order; petitioner and her husband are permanent residents of Krishnapuram village; that her nativity certificate was issued by the Revenue Officer on 19-01-2011 showing that she was a native of Krishnapuram village; the finding of the 3rd respondent

that she is not a resident of Krishnapuram village is incorrect; and on the basis of the said recommendations, her services cannot be terminated.

7. On 31-01-2012, this Court held that since the impugned order was issued without any notice and opportunity to the petitioner, it shall be stayed and the said order was subsequently extended.

8. W.V.M.P.No.2043 of 2012 is filed to vacate the said order by respondents.

9. In the counter-affidavit filed by 1st respondent, it is stated that petitioner is not a local woman and that the post of Mini Anganwadi Worker requires a local married woman. It is admitted that no prior notice was issued to the petitioner since she was not a local woman of Krishnapuram village and was a native of Koradabadi village and she had produced a false nativity certificate. It is stated that on the basis of the enquiry report of the 3rd respondent, her services were terminated as Mini Anganwadi Worker.

10. Firstly, it is admitted that before passing the impugned order, neither the 1st respondent nor the 4th respondent had issued any show cause notice to petitioner inviting her explanation. Therefore the impugned order is clearly passed in violation of principles of natural justice.

11. Secondly, in the enquiry conducted by 3rd respondent, petitioner categorically stated that her husband belongs to Korabadi village, that they left the said village in 2007 and were residing in Krishnapuram village, that they had purchased a thatched house in 2008 and got their ration card also transferred to Krishnapuram village. Her husband also stated likewise. While it may be true that a local married woman should be considered for appointment as Mini Anganwadi Worker, the petitioner cannot be said to be not a local of Krishnapuram village merely because her place of birth and her husband's native village are different, when admittedly she has filed material to show that she has shifted to Krishnapuram village even by 2008 and her ration card was also transferred to Krishnapuram village. Therefore the finding of the 3rd respondent that petitioner produced a false nativity certificate is incorrect and cannot be the basis for terminating the services of petitioner as Mini Anganwadi Worker. The respondents had clearly misdirected themselves in presuming that the qualification for appointment is that a person is eligible only in the village where she was born, and she is ineligible for getting appointed in Krishnapuram village even though she has been residing there for almost 4 years.

12. Therefore, for the above reasons, the Writ Petition is allowed and the impugned orders are set aside and respondents

are directed to continue the petitioner as Mini Anganwadi Worker in Krishnapuram village of Mandasa Mandal, Srikakulam District and also pay costs of Rs.10,000/- (Rupees Ten Thousand only) to the petitioner. Consequently, W.V.M.P.No.2043 of 2012 is dismissed.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 27-06-2017

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