

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4541 of 2010**

Yashoda Jaiswal W/o Lalji Jaiswal, aged about 40 years, R/o
Dabaripara, Post Patna, District Korea (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Women & Child Welfare Department, DKS Bhawan, Raipur, District Raipur (CG)
2. Collector, Korea, District Korea (CG)
3. Project Officer, Ekikrit Bal Vikas Sewa Pariyojna, Baikunthpur, District Korea (CG)
4. District Programme Officer, Women & Child Welfare, Baikunthpur, District Korea (CG)
5. Director, Women & Child Welfare, Directorate Old Nurses Hostel Mantralaya Premises, Raipur, District Raipur (CG)
6. Chief Executive Officer, Janpad Panchayat Baikunthpur, District Korea (CG)

---- Respondents

For Petitioner	:	Ms. Rashul Bhawnani, Advocate
For State	:	Shri Chandresh Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****13.08.2018**

Challenge in the present writ petition is to Annexure P-1 dated 05.04.2010 whereby apart from certain other Anganbadi Workers the name of the petitioner is also reflected and it has been shown that her services

would stand terminated.

2. This Court vide order dated 16.08.2010 had granted interim protection to the petitioner and today counsel for the petitioner submits that by virtue of the interim protection, the petitioner has been uninterruptedly working with the respondents and has also been getting salary regularly.

3. The allegation against the petitioner as per Annexure P-1 is that the petitioner has been continuously absent from duty since 12.09.2006. To this the counsel for the petitioner submits that the said finding of the Project Officer i.e. respondent no.3 is incorrect for the reason that the attendance register of the petitioner would by itself reflect the fact that during all these period the petitioner has discharged her duty and has also marked her presence in the attendance register maintained with the respondents. Counsel for the petitioner further submits that before issuance of impugned order, the principle of nature justice has also not been followed in as much as no opportunity of hearing was granted nor any enquiry was conducted by the respondents, therefore, the impugned order is bad in law on this ground also.

4. State counsel, however, opposing the petition submits that the impugned order by itself seems to be self explanatory in as much as the order was passed on 05.04.2010 and as per the noting, the petitioner continuously remained absent since 12.09.2006 and that conducting of an enquiry would be again an empty formality and therefore the respondents were justified in issuing the impugned order.

5. Perusal of the record would reveal that admittedly no enquiry whatsoever was conducted before issuance of the impugned order neither was even a show cause notice issued to the petitioner before the impugned

order was passed. The counsel for the State had tried to justify the act by saying that the petitioner had been repeatedly requested by various reminders to immediately resume her duties and to perform well while discharging the duties.

6. This High Court while entertaining a writ petition of a similarly placed candidate whose name also appeared in the impugned order Annexure P-1, WPS No. 4051 of 2010 in the case of **Vimal Kumari Jaiswal Vs. State of Chhattisgarh and others**, has already allowed the writ petition.

7. In the instant case, admittedly there was no enquiry conducted against the petitioner. In the event of an allegation of the petitioner being unauthorizedly absent from 2006 onwards, the authorities concerned were required to at least conduct an enquiry to ascertain whether the allegation was true or not. They could verify the attendance register of the petitioner. Likewise, they could also have got the statement of the immediate superior of the petitioner where she was working to determine whether the petitioner in fact was discharging the duties or not. The enquiry all the more became necessary for the reason that there was a categorical denial on the part of the petitioner so far as the allegation of unauthorized absence is concerned.

8. Given the facts and circumstances of the case, in addition to the decision of this Court in the case of Vimal Kumari Jaiswal (supra) and for the reasons given in the previous paragraph, this Court is of the opinion that the impugned order so far as the petitioner's name is concerned is totally uncalled for and is without any substantial material and the same deserves to be and is accordingly set aside/quashed reserving the right to the respondents to conduct an enquiry, if they so feel, in respect of the

allegation levelled against the petitioner and to pass a suitable order thereafter.

9. The writ petition accordingly stands allowed with the aforesaid observation and with consequences to follow.

**Sd/-
P. Sam Koshy
Judge**