

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.20648 OF 2006

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the 2nd respondent in removing the petitioner from the post of Anganwadi worker of Yendugumpalem SC Anganwadi Centre, Yendugumpalem Nadendla Mandal, Guntur District, as illegal, arbitrary, and consequently, to set aside the order in Proceedings No.142/A1/2006, dated nil.06.2006 issued by the 2nd respondent.

2. Heard Sri D. Khasim Saheb, learned Counsel for the petitioner and the learned Government Pleader for Social Welfare for the respondents.

3. It is the case of the petitioner that she was appointed as Anganwadi worker on 22.8.2002 by the Mothers' committee of Yendugumpalem SC Anganwadi Centre, Yendugumpalem, Nadendla Mandal, Guntur District, and she was discharging duties without any complaint. While so, the 2nd respondent, who is not competent authority to initiate disciplinary proceedings against the petitioner, issued a show cause notice on 12.4.2006 alleging that she committed certain irregularities, and thereafter, issued impugned order dated nil .06.2006 terminating the petitioner. Aggrieved by the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contended that the 2nd respondent is not the competent authority and that the Mothers' committee, who appointed the petitioner, has got power to remove the services of the petitioner. To strength his arguments, the learned Counsel for the petitioner placed reliance on the judgment of this Court in W.P.No.601 of 2010, dated 29.10.2010, wherein it is held as follows:

"When the appointing authority is a committee, the matter of removal must also go before that vey authority. A circular issued by the Commissioner of Women and Child Welfare way back on 9.2.1995 is to the effect that not only the matters of removal or acceptance of resignation, but also of transfer must go before the committee. The impugned order does not make any mention to the resolution of the Committee, if any. Respondent No.2 appears to have taken the shelter under the orders of this Court and he not only has removed the petitioner from service, but also has proceeded to appoint respondent No.4 on 12.1.2010. Respondent No.2 issued a show cause notice in July, 2009 to the petitioner almost in butler English, based upon a report of respondent No.3. When he is not conferred with the power under the G.O. nor was he directed by this Court to undertake any exercise, it is totally incompetent, if not, unbecoming of him, to have removed the petitioner from service in utter violation of the prescribed procedure.

Therefore, the Writ Petition is allowed and the impugned order is set aside. As a consequence, the appointment of respondent No.4 shall stand set aside and the petitioner shall be entitled to function as Anganwadi Worker. There shall be no order as to costs."

5. The learned Government Pleader for the respondents contended that based on the complaints received from the villagers, disciplinary action was initiated, and thereafter, a

show cause notice was issued, but the petitioner did not submit any explanation to the said show cause notice and that the respondents after conducting enquiry, terminated the petitioner from service and that the 2nd respondent, who is the competent authority, has rightly terminated the services of the petitioner, and therefore, no interference is called for from this Court.

6. This Court having considered the rival submissions made by the parties and the material available on record, this Court is of the view that the 2nd respondent is not competent authority to terminate the services of the petitioner. The same view was taken by this Court in W.P.No.601 of 2010 dated 29.10.2010. Following the judgment in W.P.No.601 of 2010, the impugned termination proceedings are set aside. However, the competent authority is at liberty to initiate disciplinary action against the petitioner, after giving opportunity to the petitioner, in accordance with law.

7. With the above observation, the Writ Petition is allowed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 31st August, 2018.
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HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.20648 OF 2006



31/08/2018

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