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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4687/2015

SMTI NIRUPAMA DAS
W/O LT. KUMUD ALI R/O VILL- DADARA P.O. DADARA P.S. HAJO DIST. KAMRUP, ASSAM.

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, SOCIAL WELFARE DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE DIRECTOR OF SOCIAL WELFARE OFFICER

3:THE CHILD DEVELOPMENT PROJECT OFFICER

4:SMTI. PRATIBHA DA

Advocate for the Petitioner : MRS.K H CHOUDHURY

Advocate for the Respondent : MR. D NATHR-4

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

27.11.2020

Heard Mr. J. I. Borbhuiya, learned counsel for the petitioner. Also heard Mr. D. Doley, learned counsel for the Social Welfare Department.

The petitioner is aggrieved by the order dated 01.08.2015 passed by the Director of Social Welfare by which the petitioner has been held to be "not a resident" of No. 2 Pub-Dadara Anganwadi Centre area, in which she had been appointed as an Anganwadi Worker.

The petitioner's case in brief is that pursuant to an advertisement dated 08.09.2009 issued by the CDPO, Hajo ICDS Project, the petitioner and the respondent No. 4 applied for the vacant post of Anganwadi Worker in No. 2 Pub Dadara Anganwadi Centre.

The petitioner secured the first position in the selection process while the respondent No. 4 secured the second position. The respondents accordingly appointed the writ petitioner to the vacant post of Anganwadi Worker.

Being aggrieved by the appointment of the petitioner, the respondent No. 4 filed WP(C) No. 73/2010 claiming that the petitioner did not belong to the area covered by No. 2 Pub Dadara Anganwadi Centre.

WP(C) No. 73/2010 was disposed of vide order dated 24.06.2011 with a direction being issued to the Director of Social Welfare to examine the claim of the petitioner and the respondent No. 4. It may be stated here that the petitioner herein was not a party in WP(C) No. 73/2010.

In pursuant to the order dated 24.06.2011 passed in WP(C) No. 73/2010, the Director of Social Welfare herein gave opportunity of hearing to the petitioner and the respondent No. 4. The parties also submitted their written statement before the Director. The Director of Social Welfare also directed an enquiry to be made and thereafter came to a finding that the petitioner was not a resident of No. 2 Pub Dadara Anganwadi Centre, but was a resident of Madhya Dadara Anganwadi Centre vide impugned order dated 01.08.2015.

The petitioner's counsel submits that the impugned order dated 01.08.2015 issued by

the Director, Social Welfare Department should be set aside, inasmuch as, the Gaonburah of Dadara Bargaon (Bangalgar) Village under Pub Bangshar Mouza had issued a certificate dated 06.05.2015 stating that the petitioner's dwelling house is situated in Paschim Dadara Village. The petitioner has also submitted another certificate dated 02.05.2015 issued by the President of the 89 No. Dadara Gaon Panchayat stating that the petitioner is a permanent resident of Village Dadara and has been running the Anganwadi Centre from 2009 to 2015. The petitioner also relied upon her own letter dated 02.04.2015 (Annexure 3C) wherein she has stated that the place where she was working was a temporary address and that her permanent address was 619 No. Dag land.

The petitioner's counsel thus prays that the impugned order dated 01.08.2015 passed by the Director of Social Welfare should be set aside, as there are documents to support the case of the petitioner that she is a resident of the area covered by No. 2 Pub Dadara Anganwadi Centre.

Mr. D. Doley, learned counsel for the Social Welfare Department submits that the order dated 01.08.2015 has been passed by the Director of Social Welfare, after giving an opportunity of hearing to the parties and after making an enquiry. He accordingly submits that there is no procedural irregularity committed by the Director while passing the order dated 01.08.2015.

I have heard learned counsels for the parties.

As can be seen from the impugned order dated 01.08.2015, the petitioner and the respondent No. 4 were heard by the Director of Social Welfare. They have also submitted written statements. The records furnished, i.e. the survey registers also showed that the name of the respondent No. 4 was listed against House No. 11 at Sl. No. 02 against No. 2 Pub Dadara Anganwadi Centre, while the name of the writ petitioner was found listed against House No. 72 at Sl. No. 02 in the survey register of Madhya Dadara Anganwadi Centre. Besides the above, while the petitioner claims to have a plot of land within No. 2 Pub Dadara Anganwadi Centre, no house has been constructed by her on the said land. As such, she could not have been residing on vacant land where there is no house/building.

The extract of the order dated 01.08.2015 passed by the Social Welfare Department is

produced below:-

Heard the petitioner and the respondent. Both of them had submitted their written statement. The petitioner submitted documents in support of her claim. The respondent had submitted that she has to cross the area of two existing Anganwadi Centre from her residence to arrive at the No.2 Pub-Dadara Anganwadi Centre. She claims that she was engaged by the Selection Committeee on humanitarian ground as she is a widow. She also have inform that she has a plot of land in the concerned Anganwadi Centre area, where she will try to construct house and to stay within the centre area. The petitioner and the respondent have furnished the written statement. Perused the report submitted by the District Social Welfare Officer, Kamrup. It has been observed that the Engquiry Officer had not made any spot visit of the area and have simply forwarded a report submitted by the Circle Supervisor. As such, it was decided to instruct the District Social Welfare Officer, Kamrup to submit a report after making an on the spot visit of the concerned Anganwadi Centre area. The Child Development Project Officer was also directed to submit the Survey Register and other relevant records of the interview. Accordingly an order was issued vide No. DSW(LC)97/2012/27, dtd. 01-11-2014.

The District Social Welfare Officer Kamrup submitted the report vide letter No. DSWO(K)R/12/2014/92, dtd. 06-05-2015. In the report it has been stated that name of the respondent has been listed in the Survey Register of Madhya Dadara Anganwadi Centre. On receive of the report another date of hearing was fixed on 28-05-2015 and the parties concerned had attended accordingly. The respondent could not furnish any document in support that her residence is within the concerned Anganwadi Centre area. The Child Development Project Officer furnished the required records. As per the Survey Register of the No.2 Pub-Dadara Anganwadi Centre, the name of the petitioner has been listed against No.11 at SL-02. The name of the respondent has been found listed against H.No-72 at SL No. 02 in the survey register of Madhya Dadara Anganwadi Centre.

In view of the above, I am in the opinion that the claim of the petitioner is based on record and hence up held. On verification of the Comparative Statement of marks it has been observed that only the petitioner and the respondent had attend the interview for the post of Anganwadi Worker in the concerned Anganwadi Centre. As such the Child Development Project Officer, Hajo, ICDS Project is hereby directed to release the respondent Smti. Nirupama Das from the voluntary service of Anganwadi Worker in No.-2 Pub-Dadara Anganwadi Centre with immediate effect. The Child Development Project Officer is also directed to engage the petitioner Smti. Pratibha Das in the said post of Anganwadi Worker after observing all required formalities.

The Hon'ble Court Order dtd. 24-06-2011 complied herewith.

This Court does not find any procedural irregularity in the manner the Director of Social Welfare has decided the issue of whether the petitioner was a resident of No. 2 Pub Dadara Anganwadi Centre. Also this Court does not find any illegality in the decision making process or finding of the Director of Social Welfare, while passing the impugned order dated 01.08.2015. The attempt by the petitioner to rely upon the certificates issued by the Gaonburah would require recording of evidence, which cannot be done in a writ Court.

In view of the facts stated above, this Court does not find any ground to exercise it's discretion in this case.

Writ petition is accordingly dismissed.

JUDGE

Comparing Assistant