

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on 07.07.2021****Order Delivered on 13 .09.2021****WA No. 159 of 2021****(Arising out of order dated 02-03-2021 passed by the learned Single Judge in WPC No. 2911 of 2020)**

1. Aadil Rashid Khan S/o Late Shri Bashir Khan Aged About 50 Years R/o Ward No. 7, Dhaura Tikura Road, Baikunthpur District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary Department of Women And Child Development, Mahanadi Bhawan, Atal Nagar Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Collector Koriya District Koriya Chhattisgarh.
3. District Programme Officer Department of Women And Child Development, Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
4. District Child Protection Officer District Koriya Chhattisgarh.

---- Respondents

For Appellant - Shri Prafull N.Bharat, Senior Advocate
with Shri Pranjal Shukla, Advocate.

For Respondents/State - Shri Arjit Tiwari, Panel Lawyer.

Hon'ble Shri Prashant Kumar Mishra, Ag. Chief Justice**Hon'ble Smt Justice Rajani Dubey****CAV Judgment****By****Hon'ble Shri Prashant Kumar Mishra, Ag.Chief Justice**

1. This intra Court appeal would call in question the legality and validity of the order passed by the learned Single Judge dismissing the appellant's (henceforth 'the petitioner') writ petition wherein he has assailed the order dated 19-10-2020 (Annexure P-1 to WP) by which he has been terminated as a Member of the Child Welfare Committee (henceforth 'the CWC'), Korea.
2. In exercise of powers under Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (henceforth 'the Act 2015') the State Government passed an order dated 11-04-2018 (Annexure P-2 to WP) appointing the petitioner as a Member of the CWC, Korea. In the terms and conditions of the order of appointment, clause 8 specifically provided that in the event the Member is carrying on any such profession/vocation, which may effect his work as a Member of the CWC, he shall put his profession/vocation in abeyance.
3. On receipt of complaint against the petitioner, an enquiry was constituted in which vide memo dated 18-06-2020 (Annexures P-6 and P-7 to WP) he was served with the notice and thereafter, the order dated 19-10-2020 (impugned order in WP) has been passed.
4. Before proceeding to deal with the arguments of the parties, it would be appropriate to mention that the petitioner's

appointment as a Member of the CWC for three years by order dated 11-04-2018 has already expired, therefore, the instant appeal has been rendered infructuous, however, learned counsel for the parties have argued the matter on merits, therefore, we proceed to hear the arguments on merits.

5. The learned Single Judge has dismissed the writ petition with reference to Clause 8 of the terms of appointment inasmuch as the petitioner was not able to devote time to the meetings of the CWC and that he appeared as counsel for the juvenile who was in conflict with law in respect of an offence under the provisions of the Protection of Children from Sexual Offences Act, 2012 (henceforth 'the POCSO') and the hearing of the said matter was also conducted by the CWC wherein the petitioner was one of the Member.
6. Shir Prafull N. Bharat, learned Senior counsel appearing for the petitioner would argue that the provisions of the Act, 2015 and the documents available in the record have not been properly appreciated. According to him, once the petitioner made statement before the CWC by filing an affidavit that he would put his profession in abeyance till he continues to be a Member of CWC, there was compliance of Clause 8 of the terms and conditions of the appointment order and the order of termination was bad in law.

7. A perusal of the document filed with the return of the State Government would indicate that on 13-06-2018, the petitioner appeared for the juvenile in conflict with law and moved an application under Section 12 of the Act, 2015 for grant of bail and on the same date attended the meeting of CWC as a Member of the committee which considered the case of same juvenile. In the letter dated 18-11-2019, the District Magistrate, while recommending petitioner's termination from the membership of CWC, clearly observed that the affidavit filed by the petitioner is only for keeping his legal profession in abeyance on the date of meeting of CWC.
8. Material available in the case clearly indicates that the petitioner has conducted himself in the manner which was not befitting to be the Member of CWC. It is a clear case of conflict of interest inasmuch as, when he appeared as counsel for the juvenile by moving application under Section 12 of the Act, 2015, he could not have attended the meeting of the CWC, which was dealing with the case of same juvenile on the same date when he moved the bail application.
9. Under Section 36 of the Act, 2015, the Committee is enjoined to make an enquiry and thereafter to pass orders under Section 37 regarding a child in need of care and

protection. If a member of the Committee is also allowed to take part in the proceedings, on behalf of the juvenile, before a Court of law, the same would create an anomalous situation not contemplated under Act.

10. Considering the terms of appointment; the undeniable fact that the petitioner appeared as counsel for the juvenile in conflict with law and then dealt with the case of same juvenile as a member of CWC; as also for the reason that when he filed affidavit in compliance of clause 8 of the terms and conditions of the appointment order, he undertook not to carry on the profession only on the date of meeting of CWC and not as a whole, we are of the considered view that the learned Single Judge has not committed any illegality by dismissing the writ petition.

11. In the result, the writ appeal, *sans* merit, is liable to be and is hereby dismissed.

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

SD/-

(Rajani Dubey)
Judge

Gowri