

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 15248 of 2017

Manashree Nayak

***..... Petitioner
Mr. Santosh Ku Mohapatra, Adv.***

-versus-

Collector Bhadrak & others

***..... Opposite Parties
Mr. B.Panigrahi, ASC***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
13.07.2022**

Order No.

12.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. The petitioner has assailed the order dated 31.05.2017 at Annexure-4 passed by the Collector, Bhadrak, dismissing the Anganwadi Appeal filed by the petitioner and confirming the disengagement order passed by the Sub-Collector, Bhadrak.
4. The brief facts germane for just adjudication of the present lis are stated hereunder.

The petitioner was engaged as Anganwadi Worker of Kelashi Anganwadi Centre in the Block of Tihidi, Bhadrak on 14.08.2006. During her engagement as Anganwadi Worker complaints were received regarding her functioning for which the CDPO, Tihidi called upon the petitioner to submit a show cause. Pursuant to which the petitioner submitted her show cause and since the same was not found satisfactory, the petitioner was

disengaged by order dated 14.12.2016 which was assailed in Misc. Anganwadi Case No. 24 of 2016.

5. On perusal of the impugned order it is seen that there are several allegations against the petitioner including irregularity in distribution of food materials, misbehaving the villagers including the concerned Sarpanch for which it is on record that there was an agitation by the local people. Detailing the allegations, Sub-Collector, Bhadrak by letter dated 21.07.2016 directed the concerned Assistant Collector, CDPO, Tihidi including the Project Supervisor to proceed the spot and enquire into the matter and submit a inquiry report. In terms of such direction inquiry was conducted and it is on record that on comparison of the register, several irregularities came to fore which have been stated in the impugned order.

6. It is on record that on verification of the Attendance Register of Pre-school children, it was seen that names of 53 (fifty-three) children between the age (3 Yrs - 6 Yrs) were registered in the above register and on verification of the same and on interaction with the parents of the children, it came to the fore that only 35 (thirty-five) children are availing the services and details of the rest are fabricated.

7. After enquiry as aforesaid the-then CDPO, Tihidi, under letter dated 28.07.2016 submitted a factual report before the Sub-Collector, Bhadrak and under letters dated 20.08.2016 & 29.08.2016 explanations were called for from the present petitioner and the explanations submitted by the petitioner were not found to be satisfactory.

8. Lastly after receipt of joint inquiry report from the-then CDPO, Tihidi, the Sub-Collector, Bhadrak under letter No.130 dated 22.09.2016 and letter No. 134 dated 1.10.2016 at Annexures-D/2 and E/2 called upon the appellant-petitioner to submit her response.

9. On a bare perusal of the Annexures-D/2 & E/2 it is seen that the same were received by the petitioner which fact is evident from the endorsement of the petitioner on the body of the said annexures. Admittedly, the petitioner did not submit any reply and thus, the allegations remain uncontroverted. On consideration of the same and keeping in view the terms of the engagement, the order was passed disengaging the petitioner which was challenged in the appeal impugned herein.

10. Learned counsel for the petitioner relies on the judgment reported in 2013(I) ILR CUT 750 (**Subash Chandra Panda vs. State of Odisha and others**) on account of violation of principle of natural justice and the judgments reported in AIR 1996 SC 484 (**B.C. Chaturvedi vs. Union of India and others**), 2009 7 SCC 301(**Jagdish Singh vs. Punjab Engineering College and others**) and 2009 12 SCC 78 (**Union of India and others vs. Gyan Chand Chhatar**), to canvass that even assuming the allegations to be correct, the disengagement of the petitioner is disproportionate and as such the matter merits the interference of this Court.

11. Mr. B.Panigrahi, learned Additional Standing Counsel relying on the policy of engagement which is on record as part of the reply to the rejoinder submits that since the disengagement was in tune with the guidelines, question of proportionality of

punishment does not come into play in the case at hand. This Court finds merit in such submission keeping in view the policy of engagement. It is also submitted that since adequate opportunities were given to the petitioner as noted above, question of violation of principle of natural justice does not arise.

12. This Court carefully scrutinized the joint inquiry report at Annexure-A/3 wherein the irregularity regarding functioning of Pre-school Attendance and misappropriation of food stuff etc. has been categorically stated. For convenience of ready reference enquiry report is extracted hereunder.

“To
The Sub-Collector, Bhadrak.
Sub:- Joint enquiry report of myself and CDPO,
Tihidi, ICDC vide letter No. 961 on 21.7.16.
Sir,

With due honour, we do inform you relating to joint enquiry report on allegation petition of Sri Santanu Kumar Das and others. We had a discussion with AWW in the presence of Sahayika Asha, Supervisor and more than 120 villagers relating to the matter on 21.7.16. The final report is as follows:

(1) Irregularities functioning of Pre-school attendance by the AWW.

- (a) There are 18 fake names those who are pass-out students found enrolled in the register out of 53 children.
- (b) In “SABALA” register there are also name of many girls found married but enrolled.

(2) Misappropriation of food-stuff

No cooking foods are supplied. Some times AWW arranges dry-foods such as Biscuits, eggs, rice to the children. They have no kitchen-shed.

- (3)** Consecutively the AWW is ready to agree for the cooking arrangement in Kelasahi Primary School Varanda by

virtue of inspection. But the student guardians are showing their discontentment not to sending their kids to the AWW for her rudeness and misbehavior.

This is for your kind information and necessary action.

Yours faithfully,

Sd/-

Asst. Collector

Sd/-

CDPO, Tihidi ICDC”

It is on record that though the petitioner was called upon to explain as to why she should not be disengaged for the irregularity noted in the notices at Annexures- D/2 and E/2, no reply has been submitted.

13. On a conspectus of materials on record and going through the order passed by the Appellate Authority, which has been passed after giving due opportunity to the petitioner, this Court does not find any infirmity in the same so as to warrant interference in exercise of power under Article 226 of the Constitution of India.

14. Accordingly, the writ petition stands dismissed.

(V.Narasingh)
Judge

Dhal