

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11258 of 2020

Minati Mahalik @ Nayak

....

Petitioner

**Ms. S.K.Dwivedy
Advocate**

-versus-

State of Odisha & others

....

Opposite Parties

**Mr. B.P.Tripathy,
Addl. Govt. Advocate**

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

23.8.2022.

Order No.

07.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned Addl. Government Advocate for the State.
3. The Petitioner was engaged as Anganwadi Worker of Rudhingia Anganwadi Centre in the district of Balasore as per the order dated 27th April, 1998. While working as such, she was involved in a criminal case for which, by order dated 15th April, 2020 passed by Sub-Collector, Balasore she was disengaged w.e.f. 9th March, 2020. In so far as the criminal case is concerned, the same was registered against the Petitioner and her family members under Sections 341/323/294/354/379/506/34 of I.P.C. in C.T. Case No.175/2020 of the court of learned J.M.F.C., Soro.

4. It is submitted that the Petitioner was not issued with any show cause notice prior to her disengagement and merely because of her involvement in the criminal case such a harsh step was taken, which is unjustified. It is also submitted that as per the revised guidelines for selection of Anganwadi Workers issued by the Government in W.C. Development Department, an Anganwadi Worker can be disengaged by the Sub-Collector if any serious or persistent lapse is noted in her work and further that she should be given an opportunity to show cause against the action proposed to be taken against her and personal hearing by the Sub-Collector. As regards the show cause notice, it is stated in the counter filed by the State-Opposite Parties that a show cause notice was attempted to be served upon the Petitioner but because of her absence in her house as well as in the village, the same could not be personally served, so the disengagement order was pasted in her house wall. In the mean time, the criminal case has ended in acquittal of the Petitioner and other accused persons from the offences as per the judgment passed by learned J.M.F.C. on 9th March, 2021, a copy of which is enclosed as Annexure-3 to the Rejoinder filed by the Petitioner.

5. In the additional affidavit filed on behalf of the Opposite Parties, it is stated that the Petitioner was detained in custody for a period exceeding 48 hours and in case of a Government servant, he shall be deemed to have been suspended w.e.f. the date of detention. Since the Petitioner being an Anganwadi

Worker is not a regular employee she was disengaged on the above ground.

6. Clearly, the above stand cannot be accepted. Further, notice by affixture cannot be treated as personal service in any manner whatsoever particularly, when it relates to disengagement of a person from his/her service. That apart, the Petitioner has been acquitted in the criminal case in question. It is stated at the bar that the post in question has not yet been filled up.

7. Having regard to all the above facts, therefore, this Court is of the considered view that the impugned order No.405 dated 15.4.2020 passed by the Sub-Collector, Balasore cannot be sustained in the eye of law and is hereby quashed. The Petitioner be reinstated in her former post if there is no legal impediment within a period of four weeks from the date of communication of this order or production of certified copy thereof by the Petitioner.

8. The Writ Petition is accordingly disposed of.

9. Urgent certified copy of this order be granted on proper application.

AKB

(Sashikanta Mishra)
Judge

