

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16080 of 2022

Rasmita Behera

Petitioner
....
Mr.S.K.Dwibedi, Advocate

-versus-

State of Odisha and others

Opposite Parties
....
Mr.S.N.Patnaik, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

12.07.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This case was listed before Court No.XVII. On being mentioned, this matter is taken up.
3. Heard learned counsel for the Petitioner as well as the learned Additional Government Advocate for the State. Perused the writ application as well as the documents filed along with the writ application.
4. The present writ application has been filed by the Petitioner being aggrieved by the order passed by the appellate authority dated 02.12.2021 under Annexure-5 thereby confirming the order dated 01.12.2014 passed by the Opposite Party No.4 –C.D.P.O., Bolangir.
5. The brief facts of the case as pleaded in the writ application is that the present Petitioner, who has been appointed as Anganwadi Worker of Bandhkeda Anganwadi Centre in the year 2009 after being duly selected for the said post. While working as such on 25.11.2014, the present Petitioner received a letter from the Office of

Opposite Party No.4 wherein he was asked to show cause within 7 days in connection with certain allegations/.irregularities complained against her. Pursuant to the show cause notice, the Petitioner filed show cause on 18.10.2014 denying the allegation made against her. Further, it was specifically stated that in the show cause filed by the Petitioner that there was a joint account in the name of the then Ward Member and the Petitioner at U.G.B. Balangir. Further in the year 2012 another person namely Smt.Rajkumari Behera, who was elected as Ward Member and thereafter on several occasions the Petitioner approached Smt.Rajkumari Behera to open new account for smooth distribution of cooked food. However, she did not cooperate and come forward to open the account, who finding no other alternative, the Petitioner intimated the said fact to the Anganwadi Supervisor, Anita Satpathy. The Anganwadi Supervisor visited the Anganwadi Centre and realized the practical difficulties faced by the Petitioner while discharging her function. Thereafter a meeting of Village Food Supervise Committee members was convened and in the said meeting a decision was taken to open an account with a member of that committee namely Chandrakal Tripathy for smooth distribution of cooked food in the village.

6. It is submitted by the learned counsel for the Petitioner that although the Petitioner had filed a detailed show cause explaining her stand, without considering the said show cause, the Opposite Party No.4- C.D.P.O., Balangir took a decision vide order dated 01.12.2014 and accordingly disengaged the present Petitioner from the post of Anganwadi worker of Bandhakada Anganwadi Centre. Being aggrieved by such action of the Opposite Party No.4, the Petitioner approached this Court by filing WP.(C) No.255 of 2015. This Court vide order dated 15.01.2015 disposed of the writ

application granting liberty to the Petitioner to approach the competent appellate authority under the guidelines.

7. It is further submitted by the learned counsel for the Petitioner that in his appeal memo before the Opposite Party No.2, the appellate authority, the Petitioner along with other grounds had taken a specific ground questioning jurisdiction of Opposite Party no.4. In the said context, learned counsel for the Petitioner draws the attention of the Court to the guidelines issued by the Government of Odisha, Women & Child Development Department dated 02.05.2007 wherein under Clause-iv, it has been provided that an Anganwadi worker can be disengaged by the Sub-Collector if serious or persistent lapse is noticed in her work. The Anganwadi Worker will be given an opportunity to show cause against the action proposed to be taken against her and personal hearing by the Sub-Collector. It is further contended by the learned counsel for the Petitioner that the aforesaid provision in the guidelines has not been followed while disengaging the present Petitioner. He further submits that neither the Sub-Collector passed the order whether any proceeding is initiated at his behest providing opportunity to file show cause or to give an opportunity of personal hearing to the present Petitioner. In such view of the matter, learned counsel for the Petitioner submits that the impugned order passed by the Opposite Party No.4, which has been confirmed in appeal by Opposite Party No.2 are unsustainable in the eye of law.

8. Learned Additional Government Advocate on the other hand submits that although order was passed by the CDPO, however, the appellate authority i.e. Collector, Bolangir while considering the appeal has given ample opportunity to the Petitioner as well as the Opposite Parties and after hearing the parties by a reasoned order

dated 02.12.2021 the appeal has been disposed of and the order passed by the Opposite Party No.4 has been confirmed by the appellate authority. Further, it is submitted by the learned counsel for the State that after disengagement of the Petitioner and pursuant to the direction of the Collector, Bolangir a fresh advertisement was issued for engagement of Anganwadi worker for Bandhakada Anganwadi Centre. In such view of the matter, learned Additional Government Advocate submits that no illegality has been committed and the impugned order has been passed following the principle of natural justice.

9. Having heard learned counsel for the parties and upon perusal of the impugned order and other materials placed on record, this Court is of the considered view that when the State Government has formulated a specific guidelines and providing a specific procedure to be followed in the matter of appointment and disengagement of Anganwadi Worker, the Government Officers are required to follow the same scrupulously. Further when the guidelines says that the Sub-Collector is the competent authority, who can disengage the Anganwadi Worker, this Court is of the considered view that by no stretch of imagination it can be construed that the CDPO has jurisdiction to pass the disengagement order. This fact is also not denied and disputed by the learned Additional Government Advocate. In such view of the matter, this Court is of the opinion that the impugned order passed by Opposite Party No.4 does not have jurisdiction in view of the guidelines, needs to be set aside and consequential order passed by the appellate authority without examining the said ground raised before him by the Petitioner, the order passed by him is unsustainable in the eye of law.

10. Accordingly, the present writ application is allowed. The

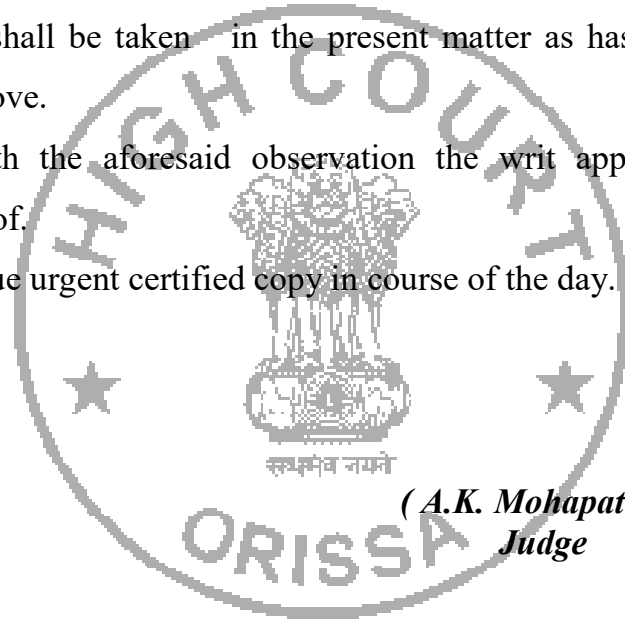
impugned order passed by the Opposite Party No.2 under Annexure-5 and Opposite Party No.4 under Annexure-3 are hereby set aside. However, this Court makes it clear that it is open for the Sub-Collector to proceed in the matter. Further, by filing the guidelines of the State Government and pass necessary orders in accordance with the guidelines as well as by following the law.

11. Further it is directed that since advertisement has been issued by the authority to engage another Anganwadi Worker in place of the present Petitioner in respect of Bandhkada Anganwadi Centre the authority shall proceed with the selection process, however no final decision shall be taken in the present matter as has been directed herein above.

12. With the aforesaid observation the writ application stands disposed of.

13. Issue urgent certified copy in course of the day.

RKS



(*A.K. Mohapatra*)
Judge