

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.359 of 2019

Pravarani Mohanty and Others* *Appellants
Mr. Santosh Kumar Swain, Advocate

-versus-

Union of India and Others* *Respondents
Mr. P.K. Parhi, ASGI

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER

13.07.2022

Order No.

02.

1. This matter is taken up through virtual/physical mode.
2. The instant intra-court appeal is directed against the order dated 24th April, 2019 passed by the learned Single Judge, whereby W.P.(C) No.5915 of 2012 filed by the present three Appellants has been disposed of.
3. Learned counsel for the Appellants heard at length and with his able assistance perused the pleadings.
4. We find that there is no error in the order passed by the learned Single Judge. Concededly, the three Appellants (writ Petitioners before the learned Single Judge) were engaged as Craft Teacher/Gram Sevika/Midwives (Dhai) on temporary basis which could be terminated without notice by Athagarh Samaj Mangal Samiti, Dhenkanal Samaj Mangal Samiti and Cuttack Samaj Mangal Samiti respectively. The engagement was w.e.f. 1988, 1995 and 1996 respectively, was admittedly under a scheme by the name of Mahila Mandal Samiti floated and funded by the Central Government, however, implemented through the local Samities, which are registered societies. They

continued to work till January, 2012, when the funding by Central Government was stopped.

5. The Mahila Mandal Scheme was discontinued vide order dated 03.01.2012 passed by Central Social Welfare Board(CSWB) /Respondent No.2, whereby services of the three Appellants along with other similarly situated employees were disengaged w.e.f. 31.03.2012. The Appellants then filed a Writ Petition bearing W.P.(C) No.5915 of 2012 seeking a mandamus to the Central/State Authorities for releasing of funds to run the scheme as also release their unpaid arrears of salaries and also to quash the order dated 03.01.2012.

During the pendency of the writ, the Central Social Welfare Board/Respondent No.2 wrote a letter dated 04.04.2012 to the Orissa State Social Welfare Board/Respondent No.3 requesting them to continue with the existing support to the Mahila Mandal program till the employees are absorbed with the ICDS project of the State. The said letter dated 04.04.2012 was communicated by the Respondent no.3 to all the Mahila Mandal Samitis/NGOs of the State by letter dated 24.04.2012.

6. In the pending writ petition, the Learned Single Judge vide order dated 24.04.2019 relied upon Para 16 & 19 of the counter affidavit dated 11.07.2012 filed by Respondent No.3/ Orissa State Social Welfare Board herein and held as under:-

“On perusal of Annexure-C/3 dated 24.04.2012, it appears that the Central Social Welfare Board vide letter dated 04.04.2012 decided to continue the existing financial support to Mahila Mandal Programme till the employees are absorbed with ICDS Project of State Government.

In view of such order passed by the authority concerned, the order in Annexure-6 dated 03.01.2012, cannot sustain in the eye of law. Accordingly, the same is hereby quashed. As such, in view of statement made in Annexure-C/3 dated 24.04.2012, since the funding has been continued to the

Mahila Mandal Programme, the relief sought by the petitioners has already been granted by the authority.

Accordingly, the writ petition stands disposed of.”

7. In the present appeal, the appellants have raised two grounds. Firstly, they were not allowed to file rejoinder to the counter affidavit of the Respondent No.3 and thereby the learned Single Judge has not followed the principle of natural justice. Secondly, they argue that the Central Social Welfare Board i.e. Respondent No.2 has not been following its letter dated 04.04.2012 to continue providing financial support to Mahila Mandal Programme till the employees are absorbed with ICDS Project of State Government.

8. On the first issue, the order dated 25.03.2019 of the learned Single Judge is relevant and is reproduced below:-

“Learned counsel for the petitioner states that he has received copy of the counter affidavit in the last week and wants to file rejoinder affidavit.

List after three weeks. Rejoinder affidavit, if any, be filed in the meantime.”

Further, the next hearing was held on 24.04.2019 wherein the learned Single Judge passed the order after elaborately considering the arguments of the appellants/petitioners. Hence, the arguments of the appellants that they were not provided with an opportunity to file rejoinder to the counter affidavit dated 11.07.2012 is without any merit.

9. On the second issue, the counter affidavit dated 11.07.2012 filed by Respondent No.3/ Orissa State Social Welfare Board reveals that the NGO's concerned have huge amount of unspent money left which is ascertained from the audited statement of the account of the NGO's from the year 1997-98 to 2006-07. The NGOs concerned were asked to reconcile and provide details of the unspent amount vide Odisha State Welfare Board/Respondent No.3 letter No.4012

dated 20.11.2007, No.67 dated 03.01.2008 and No.65 dated 03.01.2008. However, the NGOs have failed to respond to the above mentioned letters dated 20.11.2007 and 03.01.2008. The NGO's are yet to provide various documents which include the audited statement of A/Cs of previous years in case of continuing scheme, Performance report of each centre, Budget estimate etc. Further, neither details of the spending of funds as requested by respondent No.3/OSWB is provided to them nor placed on record before this Court.

It is also important to note that the appellants are neither the employees of the State Social Welfare Board nor the Central Social Welfare Board. The appellants are the employees of various NGO's and draw their salary through it. Hence, due to such inaction by the NGO's (employers of the appellants), the timely disbursement of funds was getting affected and consequently, the order dated 04.04.2012 passed by CSWB could not be implemented. Also, the appellants being the employees of a non-state entity and having been disengaged since January, 2012, the scope of interference by this Court is very limited and keeping the present facts in minds we do not find it fit to allow the prayers of the appellants.

10. In view of the aforementioned points, we find no legal infirmities in the order dated 24.04.2019 passed by the learned Single Judge and therefore this writ appeal is dismissed.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge