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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

911 WRIT PETITION NO. 3337 OF 2022

KANTA PARASRAM SATHE

....Petitioner

VERSUS

THE CHIEF EXECUTIVE OFFICER AND OTHERS

.....Respondents

Mr. B. R. Sable, Advocate for the petitioner

Mr. P. D. Suryawanshi, Advocate for the respondent Nos. 1 to 3

CORAM : KISHORE C. SANT, J.

DATE : 09th OCTOBER, 2024

P. C.

1. This petition is against an order dated 11-01-2022 passed by the learned Additional Divisional Commissioner, Chhatrapathi Sambhajinagar rejecting the appeal filed by the petitioner challenging her termination by Women & Child Development Project Officer, Dist. Jalna. The action was taken after issuing show cause notice as the petitioner was found to have indulged into embezzlement by not giving the midday meals to the students and selling the same in open market. On the

basis of some reports and panchanamas made by the Deputy Sarpanch of village Shelgaon a panchanama was prepared on 27-07-2021 and 28-07-2021. In the panchanama dated 27-07-2021, it is recorded that the petitioner was found selling thirty packets of midday meals to one Amjad Khan. In panchanama dated 28-07-2021, it is recorded that thirty three packets were found short in the stock which was also sold to other persons. On these basis show cause notice was issued dated 07-09-2021 as to why action should not be taken.

2. The petitioner submitted the explanation that allegations are made due to political rivalry. Panchanama is prepared in collusion. On receiving the explanation the Project Officer recorded that explanation is not acceptable and directed the action and terminated the service of the petitioner. The impugned order is confirmed by the Commisiosner. The petitioner is therefore, before this court.

3. The learned advocate for the petitioner vehemently

submits that action is a drastic action taken on the basis only due to political rivalry in the village. She has not committed any fraud. This was the only the incident alleged against the petitioner. Opportunity ought to have been given to the petitioner to improve her performance. He further submits that the government has taken decision on 12-04-2007 which provide for manner of taking disciplinary action against Anganwadi Sevika. In the present case the Project Officer has not followed the same procedure. He thus submits that entire action needs to be quashed and set aside.

4. The learned advocate for the respondent vehemently opposed the petition. Reply is also filed on behalf of respondent Nos. 1, 2 and 3 justifying the action taken by the authorities.

5. After hearing the parties it is clear that the action was taken only on the basis of panchanama dated 27-07-2021 & 28-07-2021. There is no earlier incidents quoted by the Project Officer.

6. On going through the Government decision dated 12-04-2007 it is seen that on first such occasion the authority has to issue show cause notice. After show cause notice, one opportunity should be given to improve behavior of such person. It should be done only after some material is found. Clause 3.2 provides that if even after giving opportunity there is no improvement in behavior or any work, it is only thereafter, services are to be terminated by the Deputy Chief Executive Officer. In the present case this court finds that termination order is not in accordance with law. It is seen that action is taken on the basis of first such incident. There is nothing on record to show that prior to this incident the petitioner was found committing such misconduct.

7. From the facts on record and looking to clause 302 of the Government decision this court finds that impugned action needs to be quashed and set aside. The petitioner should have been given an opportunity to improve her work and not to

indulge into such practices in future. Action of termination thus is against the Government decision.

8. For the reasons stated above, the petition is allowed in terms of prayer clause-B and disposed off. No order as to costs.

9. The respondents are free to take any action in future if the petitioner is found to have indulged into such practice again in accordance with law.

[KISHORE C. SANT, J.]

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