

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHHAPRA

Aanganbari Appeal No. 211/2011

Chanmati Devi Petitioner

Vs

The State of Bihar & others Respondents

ORDER

14.2.2013

The instant appeal application has been filed pursuant to the direction given by Hon'ble High Court while disposing of CWJC NO.1044/2011 (Chanmati Devi Vrs The State of Bihar & others) on 15-11-2011.

2. The brief fact of the case is that the appellant Chanmati Devi w/o Saral Ram R/o Village Fathuchapar, PS Katelya, District Gopalganj was appointed as an Aanganbari Sevika for centre No.89 in the year 2008 though an Aam Sabha After a lapse of about two years one Ful Kumari Devi of the same Village who is respondent No.7, filed a complaint before the authority alleging therein that Chanmati Devi was selected on the basis of forged certificate. This led to termination of the engagement of the appellant by DM Gopalganj which was communicated to the appellant by Memo No. 1084 dated 31.12.2010. Thereafter the appellant approached the Hon'ble High Court in CWJC NO.1044/2011 which was disposed of on 15.11.2011 with a direction to the appellant to move before the Divisional Commissioner with regard to the impugned order thus the instant appeal is before me for consideration.

3. Heard the parties.

4. The learned counsel appearing on behalf of the appellant submitted that while passing the impugned order, the authority concerned did not act properly and without considering the legal and factual aspects of the case cancelled the appointment and that too without any show cause notice and without affording opportunity of hearing thereby violating the principle of natural justice. He further submitted that the sole ground for declaring the appellants certificate as forged is legally not correct in as much as the same was verified from the Pandit Dindayal Upadhayay inter Collage, Khajuria, Barauli, Gopalganj, the examination

centre where the appellant sit in the exam, rather than from Hindi Vidyapeeth Deoghar. He also submitted that, the Principal of the said College vide letter No. 109/2009 simply informed the authority that the appellant had appeared as an independent student in 1995 Annual Examination conducted by Hindi Vidyapeeth, Deoghar and certificate produced by the appellant has not been issued by his College because there is no provision to issue certificate. So the actual course would have been to ascertain the genuiness of the certificate from Hindi Vidyapeeth and not from the college. In fact the authority concerned never enquired the genuiness of the certificate from Deoghar and declared the same to be forged and fabricated and it is on this basis, the appellant's service was terminated. The learned counsel also produced the original certificate etc to substantiate his claim and lastly prayed that the impugned order of DM be set aside.

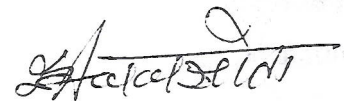
5. The learned Govt. pleader appearing on behalf of the DM Gopalganj supported the contention raised by the learned counsel for the appellant and submitted that since no show cause was issued to the appellant before terminating her appointment and hence the impugned order is liable to be set aside on this score alone. He further submitted that the certificate of the appellant was never got verified from Hindi Vidyapeeth, Deoghar, and inspite of that Collector cancelled the appointment hence this appeal should be allowed.

6. Considering the facts and circumstances of the case, material available on record and arguments advanced by the learned counsel for the appellant and views expressed by the learned GP, it transpires that the case was badly mismanaged by the District Programme Officer in the Collectorate. From the LCR, it is not even clear whether the complainant raises the question of genuiness of the Matriculation Certificate rather it speaks about the certificate given by the ex Up Pramukh. Rather, when the inquiry started, the present bone of contention viz the Matriculation Certificate issued by the Hindi Vidyapeeth, Deogarh was not in the file, if was brought in by Chandmati Devi herself. The relevant documents originally available on the lower court record are- the Admit Card, the Marks Sheet both from Hindi Vidyapeeth and the Transfer Certificate

issued by the Rajunath Jha Maha Vidhyalaya (later on Pt. Deen Dayal Upadhyay Inter Mahavidhyalaya, Khajuria, Bareilly, Gopalganj). It is not clear which certificate/document was sent for verification. Assuming that a copy of Matriculation Certificate issued by Hindi Vidyapeeth was sent for verification, the Principal was right in responding that as the certificate was not issued by his college, it was not possible to verify the genuiness of the certificate and it could be verified from the Hindi Vidyapeeth from where it was issued. This response does not mean that the certificate was forged. But no effort appears to have been taken to get it verified from the Hindi Vidyapeeth which is strange and illogical- assuming that the complaint was regarding genuiness of the certificate.

7. But the complaint appear to be more on the de-recognition of the certificate/ degree issued by the Hindi Vidyapeeth rather than the genuiness of the certificate itself. Not only this, even the CDPO, Panchdehri, had vide his letter No. 153 dated 26.9.2008, sought clarification from DPO regarding the government decision to withdraw recognition of certificates granted by the Hindi Vidyapeeth, Deogarh, but instead of obtaining and disseminating the clarification, the authorities declared the document (whatever it is) forged (without any evidence/ proof) and cancelled the selection of this appellatant as anganwadi sevika without giving her an opportunity to put forth her point of view. This is wrong and unjustifiable.

8. It is high time the District Programme Officer carefully examines the working of his office under the close supervision of the Collector and bring some improvement. Accordingly the case is remanded for a fresh examination of the whole case and to take a fresh decision based on facts, guidelines and laws.



(C. Lalsawta)

Commissioner, Saran Division, Chhapra

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