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IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 3368 of 2019

Mina Devi, Meena Kumari @ Meena Devi,
W/o Dilip Kumar, R/o Hariharganj East,
P.O. & P.S. Hariharganj, District Palamu

----- **Petitioner(s)**

Versus

- 1.The State of Jharkhand through the Deputy Commissioner, Palamu, P.O., P.S. and District- Palamu
- 2.The Deputy Development Commissioner, P.O. & P.S. & District Palamu
- 3.The District Social Welfare Officer, Palamu, P.O. & P.S. & District Palamu
- 4.The Child Welfare Project Officer, Hariharganj, P.O. & P.S. & District Palamu
- 5.Madhu Kumari, W/o Narendra Vishwakarma, R/o Village- Siyarbhukka, P.O. & P.S. Hariharganj, Dist- Palamau.

----- **Respondent(s)**

CORAM :
SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Santosh Kumar Soni, Advocate
For the Resp.-State : Mr. Rohit, AC to A.A.G.-I
For the Resp. No.5 : Mr. Prabhash Ch. Sinha, Advocate
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13 / 20.03.2025: Heard, learned counsel for the petitioner, learned counsel for the State and learned counsel for the respondent No.5.

2. Petitioner in this writ petition, has prayed to quash order as contained in Memo No.814 dated 13.06.2019 (Annexure-25) by which the Deputy Development Commissioner has directed the authorities to remove the petitioner from the post of Anganbadi Sevika. Further prayer has been made to quash the Memo No.50 dated 13.06.2019 (Annexure-26) whereby the service of the petitioner as Anganbadi Sevika has been finally terminated.

3. The petitioner was appointed as Anganbadi Sevika by following the appropriate procedure. As the appointment letter was not issued, the petitioner was compelled to approach this Court by filing W.P.(S) No.2681 of 2007 and after the order was passed by this Court and in contempt proceeding, the petitioner was appointed. Vide letter No.225 dated 03.10.2018, the Child Welfare Project Officer, Hariharganj intimated the District Welfare Officer, Palamau that there was complaint against this petitioner that her documents in respect of



educational qualification were forged. This complain was made before the Chief Minister, Grievance Redressal Cell. Further, in the said letter, it has been mentioned that on 22.05.2018 an inquiry was setup. The petitioner did not appear in the said enquiry process. The enquiry committee made an enquiry from different villages and it was intimated to them that there is irregularity in distribution of the Nutritional Food Packets. Copy of the CD (compact disc) and the report was annexed with the aforesaid letter. Recommendation was made to remove the petitioner from the post of Anganbadi Sevika. After receiving the recommendation, vide letter No.2411 dated 13.12.2018, the District Welfare Officer, Palamau issued a notice to show-cause to the petitioner as to why not the petitioner be disengaged, on the ground mentioned in the letter No.225 dated 03.10.2018. The aforesaid letter forms the part of instant show-cause notice bearing No.2411 dated 13.12.2018. In the said letter, the respondents have asked to explain the petitioner that why not the petitioner be disengaged, in view of the allegation levelled in letter No.255. The petitioner gave a detail reply explaining her stand and rebutting the allegation levelled against her. This detailed reply has also been brought on record at Annexures-23 and 24. Thereafter, vide impugned letter dated 13.06.2019, the District Welfare Officer gave a direction to remove the petitioner holding that there is irregularity in distribution of Nutritional Food Packets and also on the ground that the petitioner did not manage the center properly. The aforesaid order was communicated to the petitioner vide Annexure- 26 i.e. Letter No.50 dated 13.06.2019. These two letters i.e. Annexures- 25 and 26 are under challenge.

4. Learned counsel for the petitioner submits that without any valid ground and without properly considering the defence of the petitioner in a most cryptic manner the impugned order has been



passed. He further submits that no documents i.e. enquiry report and CD, reference of which has been mentioned in Letter No.255 has been handed over to the petitioner. He further submits that no enquiry was conducted by the respondents to independently come to a conclusion that the petitioner was not running the Anganbadi Center properly. As per him, the allegations are vague and on vague allegations the order of removal could not have been passed.

5. Learned counsel for the State submits that in the enquiry, it was found that irregularity was committed by the petitioner in distributing Nutritional Food Packets and also the petitioner was negligent in running the Anganbadi Center. There was recommendation to remove the petitioner from the post of Anganbadi Sevika. He further submits that enquiry was conducted and the enquiry report was submitted to the authorities and there was also a compact disk (CD), which recorded the entire process of enquiry, which was also forwarded to the authorities. These two records i.e. enquiry report and the CD, were sent to the authorities as an enclosure of letter No.225. It is the case of the State that since there are irregularities committed by the petitioner, a decision was taken by the authorities to disengage/remove the petitioner from the post of Anganbadi Sevika.

6. Learned counsel for the respondent No.5 (newly selected Sevika in place of petitioner) submits that she has been selected after following due procedure in the post of Anganbadi Sevika. The aforesaid Center fell vacant because of removal of the petitioner. He further submits that if the petitioner is now reinstated, the respondent No.5 has to be removed, which will cause great prejudice and hardship to her. He further submits that the petitioner has not challenged the selection of respondent No.5.

7. After hearing the parties, I have gone through the records. The facts leading to this writ petition has already been mentioned at



paragraph 3 of this orders. Petitioner was show-caused as to why the petitioner will not be disengaged/removed. This show-cause is at Annexure-22. The show-cause only mentions that a letter has been received wherein a recommendation was made to remove the petitioner, on the ground that there are irregularities committed by the petitioner in distributing Nutritional food Packets and petitioner is not running the center properly. This show-cause notice is based on a letter which is annexed at Annexure-21 bearing letter No.225. From the show-cause notice, I find that letter No.225 at Annexure-21 is enclosure to the show-cause notice, but surprisingly, the main enclosure i.e. CD and enquiry report was not a part of the show-cause notice.

8. Further, the allegation levelled against the petitioner is as follows:-

- 1. Education Testimonials are forged.*
- 2. There is irregularity in distributing the Nutritional Food Packet.*
- 3. She is negligent in running the Anganbadi Centre.*
- 4. Unauthorized absence.*

All these allegations are vague what was the irregularity committed by the petitioner in distributing the Nutritional Food Packets has not been mentioned in the show cause notice. Further, so far as forgery of the educational testimonials is concerned, this is not ground for removal of the petitioner as in the show-cause there is no whisper that which document of the petitioner is forged and how the forgery was committed and which entries are forged. So far as irresponsible attitude in running the center is concerned, in a generalized manner it has been mentioned in the show cause that the petitioner is not running center properly. What are the irregularities committed needs to be spelt out specifically, so that the petitioner could have given a proper reply, thus the allegations are vague. So far as her unauthorized absence is concerned the same is also a vague



allegation.

9. A show-cause notice is issued to a person so that he can come to know about the allegations which are levelled against him and to which he has to answer. If the notice is vague and does not spell out specifically what is the allegation person has to face and what he has to reply, he cannot deal with such show-cause notice and allegation and cannot come up with his proper defence. A vague show-cause notice without specifically spelling out the misconduct in details is not even a proper show-cause notice. Dismissing or removing of a person based on this type of vague notice is nothing, but in violation of principle of natural justice. The very purpose to issue a show-cause notice is to make aware a person about the specific misconduct or the allegation which is against him. Merely writing in the show-cause notice that the petitioner is not responsibly running the Anganbadi Center or there is irregularity in distributing the Nutritional Food Packet is not enough. There should be specific instance and specific allegation stating what act the petitioner has done which can be said to be irregularity or illegality. These ingredients are missing in the entire show-cause.

10. Further, once the show-cause notice is received and reply is given, the authority who is considering the reply must deal with each and every defence of the person which has been put forth in the reply. Without dealing and considering the defence as to whether the same is plausible or not and why the same is not proper and not acceptable, the authority cannot in one line dismiss the reply and inflict punishment upon the petitioner. In this case same has been done. Without dealing with the reply, in a most perfunctory manner in one line the services of the petitioner has been terminated. This order shows absolute non-application of mind.

11. Another glaring aspect in this case which cannot be lost sight of



is that the preliminary enquiry report based on which the show-cause notice was issued to the petitioner suggested that the petitioner has to be removed, thus, the respondents had already made up their mind to remove the petitioner and then thereafter post facto issued a notice. With a predetermined mind to remove the petitioner, the notice was issued. This is also an illegality committed by the respondents which shows their biasness. Further, the CD and the enquiry report has not been furnished to the petitioner. Non-furnishing of these two materials have prejudiced the petitioner. On all these grounds the impugned order of termination of the petitioner is set aside and quashed.

12. So far respondent No.5 is concerned, admittedly the respondent No.5 was appointed, though after following due procedure, but only after removal/dismissal of the petitioner. The post of Anganbadi Sevika fell vacant only after the petitioner has been removed. The respondent-authorities naturally filled up the said post and respondent No.5 was selected and appointed. Now when the removal of this petitioner has been declared to be illegal and is set aside, the natural consequence would be to reinstate the petitioner. Once the petitioner is reinstated, the respondent No.5 will have no right over the same post. The right of respondent No.5 accrued only on the condition that removal of the petitioner was legal. Once it has been declared by this Court that removal of the petitioner is illegal her right to hold the same post is extinguished, for which no separate procedure needs to be adopted. Thus, even if the petitioner has not challenged the appointment of respondent No.5, since the petitioner is reinstated, consequently the respondent No.5 has to be removed from service. This Court can amend the relief accordingly. Thus, the petitioner is directed to be reinstated immediately within a period of three weeks from the date of receipt of a copy of this order after removing the respondent No.5.



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13. Respondent No.5 will not be prejudiced as a full-fledged hearing has been given to the respondent No.5 in this case.
14. Accordingly, the instant writ petition stands allowed.

(ANANDA SEN, J.)

R.S.