

NISHA DEVI

v.

STATE OF H.P. & ORS.

(Civil Appeal Nos. 2915-2917 of 2014)

FEBRUARY 28, 2014

[T.S. THAKUR AND VIKRAMAJIT SEN, JJ.]

Service Law: Appointment as Anganwadi worker - Income tax certificate issued to the appellant to the effect that her income was less than Rs.12000 p.a. making her eligible for appointment as Anganwadi worker - Cancellation of appointment by placing reliance on the report of Tehsildar that the appellant was owner of 1-19 Bighas of land which was in addition to her father's ownership of 6 Bighas of land - High Court also accepted the report without hearing the appellant - On appeal, Held: High Court has acted upon this one sided or unilateral Report of the Tehsildar in arriving at the conclusion that the appellant indeed had an income in excess of Rs. 12000 p.a. and, accordingly, was ineligible for appointment as an Anganwadi Worker - Before arriving at any decision which has serious implications and consequences to any person, such person must be heard in his defence - High Court did not notice the violation and infraction of this salutary principle of law - Accordingly, on this short ground, the impugned judgment is set aside - Matter remanded to the Divisional Commissioner for taking a fresh decision after giving due notice to the appellant and affording her an opportunity of being heard - Rule of natural justice.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2915-17 of 2014.

From the Judgment & Order dated 14.12.2009, 23.03.2010 & 27.04.2011 of the High Court of Himachal Pradesh at Shimla in C.W.P. No. 4169 of 2009, Civil Review

A No. 9 of 2010 & C.W.P. No. 4169 of 2009.

Arun K. Sinha, Sumit Sinha, Rakesh Singh, Ajay for the Appellant.

B Suryanarayana Singh, AAG, Pragati Neekhara, Sandeep Narain for the Respondents.

The Order of the Court was delivered by

VIKRAMAJIT SEN, J. 1. Leave granted.

C 2. Delay condoned.

3. By means of these Appeals the Appellant/ Petitioner assails the decision of the High Court of Himachal Pradesh at Shimla in C.W.P.No.4169 of 2009, whereby her appointment as an Anganwadi Worker, on 11.04.2007, was set aside. The Appeals present a picture of protracted litigation. It appears that Respondent No.5 had successfully challenged the Appellant's appointment before the Deputy Commissioner. The Appellant's consequent Appeal had limited success before the Divisional Commissioner as he, by Order dated 13.05.2008, had remanded the matter to the Deputy Commissioner, Kullu, for fresh consideration. This time around the Appellant had succeeded upto the level of the Divisional Commissioner resulting in filing of C.W.P.No.1570 of 2009 before the High Court. The previous writ proceedings filed by Respondent No.5 succeeded inasmuch as it was held that the Divisional Commissioner had no power to review his own Order under the Scheme and Guidelines relating to 'Anganwadi Workers'. The narration of the complicated and convoluted sequence of events is not essential for deciding the present Appeals for the simple reason that the impugned Judgments accept the Report of the Tehsildar, Kullu, which was itself predicated only on the revenue records and was arrived at without hearing the Appellant. In the said Report the Income Certificate issued to the Appellant, to the effect that her income was less than Rupees twelve thousand per annum, thereby making her eligible for

appointment as a Anganwadi Worker, was cancelled on the predication that she was the owner of 1-19 Bighas of land which was in addition to her father's ownership of 6 Bighas of land.

4. In the course of arguments addressed before us, the fervent submission of counsel of the Appellant that she was not afforded any opportunity of being heard has not been controverted, inasmuch as it has been contended that the Report of the Tehsildar was based on revenue records, which, therefore, was presumed to be correct. The High Court has acted upon this one sided or unilateral Report of the Tehsildar in arriving at the conclusion that the Appellant indeed had an income in excess of Rupees twelve thousand per annum and, accordingly, was ineligible for appointment as an Anganwadi Worker.

5. Trite though it is, we may yet again reiterate that the principle of audi alteram partem admits of no exception, and demands to be adhered to in all circumstances. In other words, before arriving at any decision which has serious implications and consequences to any person, such person must be heard in his defence. We find that the High Court did not notice the violation and infraction of this salutary principle of law. Accordingly, on this short ground, the impugned Judgments and Orders require to be set aside, and are so done. The matter is remanded back to the Divisional Commissioner for taking a fresh decision after giving due notice to the Appellant and affording her an opportunity of being heard. The Divisional Magistrate, Kullu, shall complete the proceedings expeditiously, and not later than six months from the date on which a copy of this Order is served on him.

6. The appeals are allowed in the above terms.

7. The parties to bear their respective costs.

D.G.

Appeals allowed.