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# Madhu Pandey Vs State Of Chhattisgarh And Ors

## Writ Petition (C) No. 1670 Of 2021

**Court:** Chhattisgarh High Court

**Date of Decision:** April 8, 2021

**Acts Referred:**
Juvenile Justice (Care & Protection Of Children) Act, 2015 â€" Section 27(1), 27(6), 27(7)

**Hon'ble Judges:** Goutam Bhaduri, J

**Bench:** Single Bench

**Advocate:** Rohit Sharma, Siddharth Dubey

**Final Decision:** Allowed

## Judgement

Goutam Bhaduri, J

1. The challenge made in this writ petition is to the order dated 19.01.2021 wherein the petitioner has been removed from the post of Chairperson of

Child Welfare Committee, which was constituted under the Juvenile Justice (Care & Protection of Children) Act, 2015.

2. Learned counsel for the petitioner would submit that the petitioner was appointed by order dated 11.4.2017 (Annexure P-2) for a period of 3 years

in exercise of power u/s 27 (1) & (6) of the Act, 2015. Subsequently, a show cause notice was issued to her vide Annexure P-3 with an allegation that

she participated in the campaign of election in favour of BJP candidate on 11th & 12th November 2018.

Learned counsel submits that the allegation of said show cause notice was denied by the petitioner and even the photograph on which the reliance was

placed by the respondent, it is contended that the original photographs were never supplied to her and the pictures shown were not clear. He submits

that on the basis of vague photographs the wild allegations made against the petitioner cannot be sustained. However, subsequently, without giving any

further opportunity of hearing, the petitioner was removed by impugned order dated 19.01.2021 and the tenure of petitioner would be going to expire

on 11.04.2021. Learned counsel submits that the past services rendered by the petitioner would show that she is a social worker and rendered

valuable services in various fields and her removal of like nature without giving any opportunity of hearing on the vague allegations will carry a stigma

which is required to be set aside as it would come as a rider to take up any further participation/action in the welfare of the Society. Therefore, the

impugned order be set aside.

3. Per contra, learned State Counsel vehemently opposes the arguments and would submit that after hearing the petitioner and after due consideration

of the reply to show cause, she was removed, therefore, the order is well merited, which do not call for any interference.

4. The removal of a member of the Child Welfare Committee is contemplated under sub-section 7 of section 27 of the Act, 2015, which reads as

under:

Sec. 27.Child Welfare Committee .-(1) The State Government shall by notification in the Official Gazette constitute for every district, one or more

Child Welfare Committees for exercising the powers and to discharge the duties conferred on such Committees in relation to children in need of care

and protection under this act and ensure that induction training and sensitisation of all members of the committee is provided within two months from

the date of notification.

(2) The Committee shall consist of a Chairperson, and four other members as the State Government may think fit to appoint, of whom atlease one

shall be a woman and another, an expert on the matters concerning children.

(3) The District Child Protection Unit shall provide a Secretary and other staff that may be required for secretarial support to the Committee for its

effective functioning.

(4) No person shall be appointed as a member of the Committee unless such person has been actively involved in health, education or welfare

activities pertaining to children for at-least seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social

work or sociology or human development.

(5) No person shall be appointed as a member unless he possesses such other qualification as may be prescribed.

(6) No person shall be appointed for a period of more than three years as a member of the Committee.

(7) The appointment of any member of the Committee shall be terminated by the State Government after making an inquiry, if --

(i) He has been found guilty of misuse of power vested under this Act;

(ii) He has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in

respect of such offence;

(iii) He fails to attend the proceedings of the Committee consecutively for three months without any valid reason or he fails to attend less than three

fourts of the sittings in a year

(iv) Becomes ineligible under sub-section (4) during his term as a member

(8) xxxÃ, xxxÃ, xxx

(9) xxxÃ, xxxÃ, xxx

5. The show cause notice which was served to the petitioner purports that the allegations were levelled against the petitioner that she has participated

in election campaign in favour of BJP Candidate on 11th & 12th November, 2018. Certain photographs were also supplied. The reply to such show

cause notice would show that the entire allegations were denied and it was stated that the said allegations are false and frivolous. Even the

photographs which was given was also refuted and on these grounds, she sought that the allegations levelled against her be dropped. Subsequently it

appears that the orders have been passed whereby the petitioner has been removed. Sub-section (7) of section 27 of the Act of 2015 purports that the

removal can be made only when he/she is found guilty of misuse of power vested under this Act, after holding an enquiry.

6. A reading of show cause notice which is nucleus of the issue for termination of the authority purports that the allegations were made against the

petitioner that she participated in an election campaign in favour of certain candidate. Sub-section (7) of section 27 only contemplates that the removal

can be made when it is found in enquiry that a person is guilty of misuse of power vested under the Juvenile Justice Act, 2015. Despite the fact that

the petitioner has denied that she had not participated in any election campaign and even if such allegations are read in terms of sub-section (7) of

Section 27 of the Act, it cannot be enveloped to lead an inference that the campaign in favour of certain candidates would be within the ambit of guilty

of misuse of power under the Act, 2015. Even other wise, it shows that the petitioner was not given any opportunity of hearing. Under the

circumstances, the removal of the petitioner's authority from the post of Chairperson of the Child Welfare Committee vide Annexure P-8 dated

19.01.2021 cannot be sustained and is set aside.

7. Accordingly, this writ petition is allowed.