

(2012) 05 JH CK 0042**Jharkhand High Court****Case No:** Civil Review No. 94 of 2011 in W.P (S) No. 2226 of 2011

State of Jharkhand and Others

APPELLANT

Vs

Smt. Yashoda Yadav

RESPONDENT

Date of Decision: May 15, 2012**Citation:** (2012) 4 JCR 238**Hon'ble Judges:** Dhirubhai Naranbhai Patel, J**Bench:** Single Bench**Final Decision:** Dismissed**Judgement**

D.N. Patel

1. Present application has been preferred by the State of Jharkhand, who is the original respondents in W:P.(S) No. 2226 of 2011 for review of the order passed by this Court dated 24th August, 2011, whereby this Court has allowed the said writ petition and the order, dated 23rd February, 2011, passed by the Deputy Commissioner, Deoghar was quashed and set aside and the writ petition was allowed with a cost of Rs. 5,000/-. Counsel for the applicant submitted that this Civil Review Application has been preferred mainly on two grounds:

(a) Original petitioner is not a resident of village-Dangi, P.O. Jaridih, P.S. Jaridih, District Deoghar and therefore, original petitioner cannot be appointed as an Anganbasi Sevika in the concerned Anganbasi Centre.

(b) For dispensing with the cost of Rs. 5,000/- awarded by this Court to the petitioner,

Counsel for the respondent (original petitioner) submitted that in the impugned order no such allegation has ever been levelled against the petitioner that petitioner is not a resident of village-Dangi. Upon any allegation there would have been proper show-cause to the petitioner by the respondents and therefore, in absence of any show-cause notice to the original petitioner, reason canvassed by the State of

Jharkhand may not be accepted by this Court. It is further submitted that in case there will be a show-cause notice served upon the original petitioner that she is not a resident of village- Dangi, original petitioner will reply with necessary evidences. Nonetheless, it is vehemently submitted by. the counsel for the original petitioner that petitioner belongs to village Dangi.

2. So far as the cost is concerned it is submitted by the counsel for the petitioner that let there be a token cost imposed upon the respondent State.

3. In view of these submissions, this Civil Review Application is hereby dismissed only on the following grounds:

(I) The new reason stated by the original respondent that the petitioner does not belong to village Dangi is not acceptable by this Court because no show-cause notice has ever been given to the petitioner in this regard and had there been a show-cause notice to the petitioner, that would have provided the original petitioner with an opportunity to reply and therefore, liberty is reserved with the State of Jharkhand to take necessary action in accordance with law, if they so chose, but atleast after a detailed show-cause notice and an adequate opportunity of being heard is given to the original petitioner.

(II) It is also brought to the notice of this Court that no enquiry was conducted in connection with the allegation levelled by the State against the petitioner. No enquiry report was given by anyone. In view of this fact also the contention raised by the State of Jharkhand is not accepted by the Court. It is only after a proper enquiry into the allegations by the original respondents that this allegation can be decided by this Court.

(III) So far as imposition of cost is concerned, looking to the facts and circumstances of the case initially a cost of Rs. 5,000/- was awarded vide order dated 24th August, 2011 in W.P.(S) No. 2226 of 2011. The same is now reviewed at a cost of Rs. 250/-. This cost of Rs. 250/- will be paid to the petitioner by the State of Jharkhand. The amount of cost is reduced to the aforesaid extent. Therefore, order passed by this Court dated 24th August, 2011 in W.P.(S) No. 2226 of 2011 is modified only with respect to cost and nothing else.

The review application is, hereby, dismissed in view of the aforesaid observation with modification in cost to the aforesaid extent with no other modification being allowed by this Court.