

Court No. - 8

Case :- WRIT - A No. - 6428 of 2022

Petitioner :- Smt. Manisha Kanaujia And Another

Respondent :- District Magistrate And Another

Counsel for Petitioner :- Abhilasha Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Alok Mathur,J.

1. Heard Ms. Abhilasha Pandey, learned counsel for the petitioner as well as learned Standing Counsel for the respondents.

2. Counter affidavit filed by District Programme Officer, Barabanki is taken on record.

3. The petitioners are working on the post of Angan Wadi Workers at Anganwadi Centre City Guleria Garda, District - Barabanki in Integerated Child Development Scheme, which is Government of India sponsored scheme. Relief sought by the petitioner in the present writ petition is for a direction to the respondents to comply with the orders passed by the Chief Secretary, Government of U.P., Lucknow dated 19.11.2019 and 03.05.2017 as well as Government Order dated 09.11.2013, which restrains Anganwadi Workers/Helpers to be engaged in non Integrated Child Development Services Schemes (I.C.D.S.) related tasks and also directions to the respondents to forthwith comply with the guidelines issued by the Government of India dated 15.06.2010 and 05.11.2019 regarding restraining utilization of Anganwadi Workers/Helpers in local body elections etc.

4. It has been submitted by learned counsel for the petitioners that they were engaged in Booth Level Officers duty (BLO's) which is election related full time work and is non departmental task. The care taking and all round development of young children of 3-6 age group, the services rendered to pregnant and lactating mothers are adversely hampered by such duty which is in clear violation to child rights for getting at least 300 days in a year free nutrition, health care and education as envisaged in Food Security Act, 2013, New Education Policy, 2020 and National Policy for Children, 2013.

5. It is next submitted by learned counsel for the petitioners that there are many village level employees such as Panchayat Mitra, Shiksha Mitra, Rozgar Sewak and Sanitation workers and village secretaries who can undertake such election related

duties of BLO. It is submitted that Government Order dated 09.10.2013, which prohibits engagement of Anganwadi Workers and Helpers in non-departmental activities as Child Welfare is considered supreme priority under Centrally sponsored Schemes. Even the State Government has issued order dated 31.05.2017, by Chief Secretary which is addressed to all the District Magistrates to not to engage Anganwadi Workers/Helpers in non departmental tasks. The Chief Secretary, Government of U.P. has also issued order dated 19.11.2019, citing strong objection by Central Government regarding deployment of Anganwadi Workers in non ICDS activities, which include nutritional, educative and health care of children, barring exceptional and inevitable circumstances.

6. It is further submitted that the issue involved in the present writ petition is also engaging attention of Hon'ble Supreme Court and by means of order dated 08.03.2020, rendered in the case of Suo-moto Writ Petition (C) No. 2 of 2020, following order was passed :-

"Closure of Anganwadi Centers due to spread of COVID-19 Pandemic situation may lead to large scale malnourishment among beneficiaries, particularly the Children and Lactating and Nursing Mothers in Rural as well as Tribal areas are prone to such mal-nourishment While dealing with one crisis, the situation may not lead to creation of another crisis."

7. The aforesaid order of Apex Court has been referred to in order dated 23.03.2020, passed by the Director (ICDS), Government of India, who in his order has recorded that in case Anganwadis are shut down, the children as well as the lactating & nursing mothers would be deprived of the nutritional food. Non-supply of nutritional food to the children as well as lactating and nursing mothers may lead to large-scale malnourishment. Particularly, the children and the lactating and nursing mothers in rural as well as tribal area are prone to such mal-nourishment. Such malnutrition may affect their immunity system and as such, children and lactating and nursing mothers would be more prone to catch the infection.

8. It is in the aforesaid circumstances, the work done by the Anganwadi Workers cannot be undermined by passing any direction for discharge of duties by departments and specially during elections. It is noticed that Central and State Governments are vigilant in this regard and have passed various Government Orders restraining the District Magistrates and other Officers not to engage Anganwadi Workers in other works including election duty.

9. In the counter affidavit it has only been stated that since work of elections is of supreme importance in a Democracy and all the officers have to act and assist during such process, but in the counter affidavit there is no answer to the various Government Orders issued either by the Chief Secretary, Government of U.P. or by Government of India and also directions issued by the Apex Court in this regard.

10. In the light of above, this Court is of the considered view that work which is being discharged by Anganwadi Workers is of considerable importance, looking into the fact that in one block there is only one worker and in case that one Anganwadi Worker is assigned duty in elections or any other work then entire nursing and lactating woman including pregnant women would not be taken care of and would adversely affect the health of public at large.

11. In the light of above, present writ petition is **allowed**.

12. It is provided that let Government Order dated 19.11.2019 and 03.05.2017 as well as Government Order dated 09.11.2013, the block level officers and various other departments are restrained from passing any orders engaging Anganwadi Workers in any other work/duty including election duty.

13. Let a copy of this order be served upon the Chief Secretary, Government of U.P., Lucknow, so that he may pass necessary orders and direct the District Magistrates accordingly.

Order Date :- 9.11.2022

A. Verma

(Alok Mathur, J.)