
(1998) 07 BOM CK 0045
In the Bombay High Court
Case No : Writ Petition No.5650 of 1996

Anant Govindrao Saraf

APPELLANT

Vs

The State of Maharashtra and another

RESPONDENT

Date of Decision : 22-07-1998

Acts Referred:

Citation : (1999) 1 ALLMR 479 : (1999) 4 BomCR 195

Hon'ble Judges : R.J. Kochar, J;A.D. Mane, J

Bench : Division Bench

Advocate : V.R. Sonwalkar, for the Appellant; R.S. Deshmukh, A.G.P., for the Respondent

Judgement

A.D. Mane, J.—The petitioner is the adopted son of freedom fighter Shri Govindrao Saraf who died on 3-2-1987. After his death his wife Vatsalabai was getting pension of freedom fighter. The petitioner submits that as there was no issue to his adoptive parents he was adopted as their son on 19-8-1988. The mother of the petitioner died on 23-8-1992. The petitioner submits that as the adopted son the petitioner applied for certificate of nomination of freedom fighter but his application was not decided and therefore, this writ petition is filed for appropriate directions to the respondents to issue certificate of nomination of freedom fighter.

2. Reply is filed on behalf of the respondent No. 1. It has been stated that since there is no provision for nomination in favour of an adopted son the application made by the petitioner on 8-8-1994 was rejected. In this context, reliance is placed on the decision of the High Power Committee appointed by the State Government to consider the question whether the nomination certificate could be issued when the father as well as the mother of the adopted son expired. The case of the petitioner therefore is governed by the policy decision of the State Government.

3. The instructions issued by the Government vide letter dated 7-1-1997 clearly

show that the High Power Committee of the Freedom Fighter Cell in its meeting held on 5-2-1996 took the decision that there is no need to issue the nomination certificate in case the freedom fighter as well as his wife i.e. both of them are not alive because the object for which such nomination is to be made will be frustrated.

4. Shri Sonwalkar, learned Counsel for the petitioner, submits that the Government of Maharashtra by the Resolution dated 31-1-1985 has resolved to provide for nomination of a person who is dependant on the freedom fighter as eligible for getting the nomination certificate. Shri Sonwalkar further submits that the decision of the High Power Committee is in conflict with the Government Resolution of 1985 and therefore, the decision of the respondent No. 1 not to give such certificate is illegal.

5. It is not possible to accept the submission of Shri Sonwalkar, learned Counsel for the petitioner. The very object of nomination of a dependant of the freedom fighter is to provide means of livelihood and support to the freedom fighter. Therefore, the adopted son is entitled to such certificate only when freedom fighter or his wife is alive. The Resolution of 1985 lays down certain conditions of eligibility to get the certificate. The decision of the High Power Committee introduced one more condition of eligibility for getting nomination certificate. In the present case, there is no dispute that no freedom fighter or his wife is dependant on the petitioner, inasmuch as his parents have expired before applying for nomination certificate. We, therefore, do not find any conflict between the Resolution of 1985 and decision of the High Power Committee. In that view of the matter, we find no substance in the writ petition.

6. In the result, the writ petition is dismissed. Rule is discharged. There shall be no order as to costs.

7. Petition dismissed.