
(2004) 02 AHC CK 0173
In the Allahabad High Court
Case No : Writ Petition No. 1656 of 2003 (SS)

Ganga Bisht (Smt.)	Vs	APPELLANT
State of Uttaranchal and		RESPONDENT

Date of Decision : 24-02-2004

Acts Referred:

Constitution of India, 1950 — Article 21, 39, 51A(e)

Citation : (2004) 02 AHC CK 0173

Hon'ble Judges : Rajesh Tandon, J

Final Decision : Disposed Of

Judgement

Rajesh Tandon, J.—Heard the learned Counsel for the parties at length.

2. By the present writ petition the petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus directing the respondent to transfer the petitioner to one of the Schools, Panda, Huraiti, Rai Puneri, Aincholi Muspati, Takari and Takana within District Pithoragarh or to attach her in the office of District Basic Education Officer, Pithoragarh.

3. Briefly stated the facts giving rise to the present writ petition are that the petitioner is an Assistant Teacher in Primary Section of Education Department since 1973 The petitioner was transferred to Primary School, Khati Gaon, Block Moonakot, District Pithoragarh in the year 1994 and since then she is posted in that school. The petitioner has to travel 18 Kms. from Pithoragarh and further three Kms. on foot for reaching the School. The petitioner has stated that she is ill and is taking treatment from All India Institute of Medical Science, Delhi and Ram Manohar Lohia Hospital, Delhi. The husband of the petitioner is also ill and undergoing treatment in Sushila Tewari Memorial Hospital, Haldwani. In Paragraphs 7 and 8 of the writ petition the petitioner has stated as under :

That on 14.7.2001 while the petitioner was going to attend her school she met with an accident, which made her physically handicapped. The petitioner was admitted in the B.D. Pandey Hospital, Pithoragarh on 14.7.2001 and was

discharged on 17.7.2001 so that she may get herself examined by the specialized doctors outside Pithoragarh. Since then the petitioner is undergoing treatment in various hospitals different type of ailments, which were multiplied due to the said accident. The photocopies of the discharge slip issued by the B.D. Pandey Hospital, Pithoragarh, Joshi Bone Hospital, Haldwani, Dr. Sushila Tiwari Memorial Hospital, Haldwani, Vivekananda Poly Clinic, Lucknow and All India Medical Sciences, New Delhi are enclosed with this writ petition as Annexure No. 2.

That the husband of the petitioner who is also a heart patient and undergoing treatment in Dr. Sushila Tiwari Memorial Hospital, Haldwani. The photocopies of the registration cards, ECG and other reports of the above hospital regarding the husband of the petitioner are enclosed with this writ petition as Annexure No. 3 of the petition.

4. The petitioner has stated that she has moved applications on 19.6.1999, 27.6.2001, 16.4.2002, 18/24.3 2003 and 13.7.2003 to the respondents for her transfer within the municipal limits of Pithoragarh city but the same has not been considered by the respondents.

5. The petitioner has also stated that the Joint Director Education, Kumaon Division, Nainital has also written a letter to the Respondent No. 1 with the direction that on medical ground the petitioner may be transferred to any School situated in the road side or in the District Head Quarter of Pithoragarh. The recommendation is quoted below :

6. under Article 39 of the Constitution of India certain principles of policy have been elaborated to be followed by the State. Clause (a) of Article 39 reads as under :

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood.

7. Article 51 A (e) of the Constitution of India reads as under :

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional people of India transcending religious, linguistic and regional or sectional diversities, to renounce practices derogatory to the dignity of women;

8. In *Kapila Hindograni v. State of Bihar*, 2003 (7) AIC 18 (SC), the Apex Court has observed as under :

The term "life" used in Article 21 of the Constitution of India has a wide and far reaching concept. It included livelihood and so many other facets thereof. "Life" as observed by Field, J. in *Murphy v. Illinois*, means something more than mere animal existence and the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed. [See *Board of Trustees of the Port of Bombay v. Dilipkumar Raghvendra Nath Nadkarni and others*, and *Olga*

Tellis and others v. Bombay Municipal Corporation and others].

9. The petitioner has stated that she is suffering hardship due to her own illness and due to the illness of her husband. The Respondent No. 1 has already directed the Respondent No. 2 to transfer the petitioner in any school situated at roadside.

10. Thus considering the facts and circumstances narrated by the petitioner, respondents are directed to consider and decide the representation of the petitioner for her transfer to a school within the limits of District Headquarter or a nearby place of Pithoragarh city within six weeks after the receipt of the certified copy of his order.

11. The writ petition is accordingly disposed of. No order as to costs.