
(2019) 02 RAJ CK 0124
In the Rajasthan High Court
Case No : Civil Writ No. 10014 Of 2018

Geeta Kumari

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 15-02-2019

Acts Referred:

Hindu Marriage Act, 1956 — Section 13

Citation : (2019) 02 RAJ CK 0124

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : R.N. Choudhary, Kailash Choudhary, Manish Vyas

Final Decision : Dismissed

Judgement

This writ petition has been filed by the petitioner aggrieved against the rejection of her candidature as a divorcee pursuant to the advertisement dated 12.4.2018.

The petitioner applied for the post of Teacher Gr.III (Level-I) and indicated her category as divorcee. Based on the indications made in the application, the petitioner was selected, however, during course of document verification, her candidature was rejected indicating that petitioner had produced the decree of competent court, wherein, the decree was after the last date of submission of application form.

It is submitted by learned counsel for the petitioner that the husband of the petitioner had executed an agreement dated 13.7.2016, wherein, the petitioner was given divorce and as such she indicated her status in the application as divorcee. Whereafter, a petition under Section 13 of the Hindu Marriage Act, 1956 ('the Act of 1956') was filed, wherein also, the competent court relying on the said agreement, granted the decree on 1.6.2018 and, therefore, the rejection of petitioner's candidature on account of date of decree being subsequent to the last of application, is not justified.

Learned counsel for the respondent - caveator supported the order impugned. It

was submitted that a bare perusal of the decree passed by the competent court indicates that the decree of divorce has been granted w.e.f. 1.6.2018 and as such admittedly the petitioner was not divorcee on the date of application / last date of application and, therefore, she was not entitled to the benefit of status as divorcee and respondents were, therefore, justified in rejecting her candidature, which does not call for any interference.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

A bare perusal of the application (Annex.6) filed by the petitioner indicates that on the one hand she has indicated her marital status as divorcee and on the other hand indicated her spouse's name Pawan Ahir in the same form, which is in terms contradictory.

Reliance placed on the document dated 13.7.2016 (Annex.5) for claiming divorce is also apparently misplaced as though the same has been indicated as an agreement between petitioner's husband - Pawan Kumar and petitioner, however, the document does not even bear the signatures of the petitioner.

Besides the above, admittedly the parties are governed by the provisions of Hindu Marriage Act, 1956, based on which, the petitioner filed proceedings under Section 13 of the Act of 1956 for dissolution of her marriage on the ground of cruelty and desertion.

The competent civil court after evidence was led by the petitioner, passed the ex-parte decree dated 1.6.2018 specifically ordering for dissolution of marriage w.e.f. 1.6.2018. Though the civil court noticed the claim of the petitioner regarding divorce having been granted by way of document dated 13.7.2016, however, as the proceedings were initiated under Section 13 of the Act of 1956 and not for seeking a declaration regarding the marriage having been dissolved on 13.7.2016, the effect of decree would be that the marriage stood dissolved on 1.6.2018 and, therefore, as on the date of filing the application / last date of the application, the petitioner could not claim herself as a divorcee and consequently, the respondents were justified in rejecting the candidature of petitioner as a divorcee. The said action of the respondents cannot be faulted on any of the grounds raised by the petitioner.

There is no substance in the writ petition. The same is, therefore, dismissed.