
(2019) 09 UK CK 0177

In the Uttarakhand High Court

Case No : Writ Petition (PIL) No. 155 Of 2019

Kailash Chandra Sharma

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 25-09-2019

Acts Referred:

Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 — Section 5, 7, 7(1), 7(2), 15(1), 15(2), 21, 21(1)

Citation : (2019) 09 UK CK 0177

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : Narendra Bali, Paresh Tripathi

Final Decision : Disposed Of

Judgement

Ramesh Ranganathan, CJ

1. Heard Sri Narendra Bali, learned counsel for the petitioner and Sri Paresh Tripathi, learned Chief Standing Counsel for the State Government and, with their consent, the writ petition is disposed of at the stage of admission.

2. This writ petition is filed in public interest seeking a writ of mandamus to direct the respondents to constitute a Maintenance Tribunal and an Appellate Tribunal as provided under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short the 'Act'); and for a mandamus directing the respondents to take effective measures for providing publicity, and creating awareness, for the welfare of senior citizens.

3. Section 7(1) of the Act requires the State Government, within a period of six months from the date of commencement of the Act and by notification in the Official Gazette, to constitute, for each Sub-division, one or more Tribunals, as may be specified in the notification, for the purpose of adjudicating and deciding upon the order for maintenance under Section 5. Section 7(2) of the Act stipulates that the Tribunal shall be presided over by an officer not below the

rank of a Sub-Divisional Officer of a State. Section 15(1) of the Act enables the State Government, by notification in the Official Gazette, to constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal. Section 15(2) of the Act stipulates that the Appellate Tribunal shall be presided over by an officer not below the rank of a District Magistrate.

4. Since the complaint in this writ petition is regarding the constitution of Tribunals and Appellate Tribunals under the Act, we had requested Sri Paresh Tripathi, learned Chief Standing Counsel for the State Government, to ascertain the reasons for the delay in constituting these Tribunals.

5. Today Sri Paresh Tripathi, learned Chief Standing Counsel for the State Government, would submit that the writ petition as filed is wholly misconceived, since the State Government had, by notification dated 19.12.2011, made Rules under the Act and had, thereafter, by separate notifications dated 07.08.2012, constituted a Tribunal under Section 7 of the Act with the Sub Divisional Magistrate as its Chairman, and an Appellate Tribunal in each district with the District Magistrate as its Chairman. It is evident, therefore, that, as obligated under the Act, the Tribunals and the Appellate Tribunals have already been constituted in each of the districts of the State of Uttarakhand.

6. Sri Narendra Bali, learned counsel for the petitioner, would submit that people are totally unaware of the existence of such Tribunals and Appellate Tribunals, and the State Government ought to have, in the discharge of its statutory obligations under Section 21 of the Act, given wide publicity to its notifications dated 07.08.2012 constituting Tribunals and Appellate Tribunals.

7. Section 21 of the Act requires the State Government to take measures to ensure that (a) the provisions of the Act are given wide publicity through public media including television, radio and print, at regular intervals; and (b) the Central Government and State Government Officers, including police officers and members of the judicial service, are given periodic sensitization and awareness training on the issues relating to the Act.

8. It does appear that the jurisdiction of this Court was invoked by the petitioner as he was ignorant of the existence of such Tribunals.

9. Since Section 21(1) of the Act obligates the State to give wide publicity to this Act, which seeks to achieve the laudable object of safeguarding the interests of senior citizens, the first respondent is requested to give wide publicity to the provisions of the Act regarding constitution of Tribunals / Appellate Tribunals in the Media and through other means, so that Senior Citizens in the State of Uttarakhand are made aware of the existence of such Tribunals / Appellate Tribunals, and are in a position to avail their remedies by invoking the jurisdiction of such Tribunals. The first respondent shall complete this exercise, of giving wide publicity to the provisions of the Act, at the earliest and, in any event, within three months from the date of production of a certified copy of this order.

10. The writ petition is, accordingly, disposed of. No costs.