
(2014) 09 MAD CK 0329

In the Madras High Court

Case No : Writ Petition No. 24231 of 2014 and M.P. Nos. 1 and 2 of 2014

Madhuben Suryakant Patel

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 24-09-2014

Acts Referred:

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 2(c), 2(e), 2(h), 2(o)

Citation : (2014) 7 MLJ 649

Hon'ble Judges : V. Ramasubramanian, J

Bench : Single Bench

Judgement

V. Ramasubramanian, J.—The petitioner's daughter, who has suffered a Left Basal Ganglia Haematoma due to arteriovenous malformation in May, 2005, approached the 4th respondent for the issue of a Legal Guardianship certificate under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental retardation and Multiple Disabilities Act, 1999. It was rejected by the 4th respondent on the ground that the condition of the petitioner's daughter does not come under one of the four disabilities mentioned in the above said Act. Therefore, the petitioner is before this Court. Heard Mr. R. Veeramani, learned counsel for the petitioner, Mr. S. Haja Mohideen Gisthi, learned Central Government Standing Counsel for respondents 1 and 2 and Mr. A. Tamilvanan, learned Government Advocate for respondents 3 and 4.

2. The certificated issued by JIPMER shows that the petitioner has gone into a persistent vegetative state in May, 2005 and for the past 9 years, she is completely oblivious to what is happening around her. Therefore, the interpretation, that is sought to be given by the 4th respondent cannot be accepted.

3. Section 2(e) of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, defines "cerebral palsy" to mean "a group of non-progressive conditions of a person characterised by abnormal

motor control posture resulting from brain insult or injuries occurring in the pre-natal, peri-natal or infant period of development.

4. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, was enacted with a view to provide for the constitution of a body for the welfare of persons with multiple disabilities. The said Act also provides the very same meaning for the expression "cerebral palsy" under Section 2(c). Section 2(o) of the said Act defines "severe disability" to mean "disability with 80% or more of one or more of multiple disabilities". "Multiple Disabilities" is defined under Section 2(h) to mean "a combination of two or more disabilities as defined in 1995 Act." Once it is found that the petitioner's daughter is in a comatose condition, completely unaware of what is happening around her, I do not think that the respondents can adopt a narrow interpretation. Therefore, the impugned order is set aside and the writ petition is allowed. The 4th respondent is directed to issue the certificate sought by the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs. Connected M.Ps are closed.