

(2018) 09 RAJ CK 0061
In the Rajasthan High Court
Case No : Civil Writ No. 14377 of 2018

Preeti Vyas @APPELLANT@Hash State of Rajasthan & Ors

Date of Decision : 24-09-2018

Acts Referred:

Citation : (2018) 09 RAJ CK 0061

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : R.S. Rathore, Dinesh Ojha, P.R. Singh

Final Decision : Disposed Off

Judgement

Learned counsel for the petitioner submits that the petitioner had earlier approached this Court by filing SBCWP No.11984/2018, which writ petition

was decided on 14.08.2018 permitting the petitioner to apply as TSP candidate in terms of judgment in the case of Manish Kumar Nagda & Ors. v.

State & Ors. : SBCWP No.8529/2018, decided on 23.07.2018, however, now for lack of TSP certificate, she is being excluded from the selection process.

It is submitted by learned counsel for the petitioner that the issue raised in the present writ petition is squarely covered by the judgment in the case of

Smt. Twarita Gehlot v. State of Rajasthan & Ors. : SBCWP No.15540/2017 decided on 14.12.2017.

Learned counsel for the respondents submits that though the issue raised is similar to that of Smt. Twarita Gehlot (supra) and was decided in terms of

Manish Kumar Nagda (supra) earlier, the State Government has challenged the validity of the judgments before the Division Bench wherein notices

have been issued.

In view of the above fact situation, the writ petition filed by the petitioner is

decided in terms of the judgment in the case of Smt. Twarita Gehlot (supra). However, it goes without saying that in case the judgment in the case of Smt. Twarita Gehlot (supra) and Manish Kumar Nagda (supra) are varied by the Division Bench, the same would apply to the case of petitioner.

In the case of Smt. Twarita Gehlot (supra), the Court has directed as under :-

“After hearing learned counsel for the parties and perusing precedent laws, this Court is of the opinion that time and again the precedent law has settled the issue that after marriage a woman acquires the domicile of the place of her husband and, therefore, she has to be treated for all practical purposes a citizen of that particular region. The petitioners who are married ladies and apparently from the same caste as that of their husband have come to the TSP area concern on account of their marriage and, therefore, they have to be treated as a part of the family and they too need to be extended all benefits that are available to the residents of those TSP area. The factum of marriage as well as the factum of petitioners having bonafide residence certificate and special bonafide residence certificate is not denied by the respondents. The said certificates are on account of husband’s place of residence, rather than, that of parents. In an institution of marriage any certificate of a woman, may that be, election voter ID card, passport, ration card, aadhar card, bank details or any other educational certificates or employment certificate etc., includes address of husband for all practical purposes. Law itself permits such address as the permanent address for all future legal and financial transactions, therefore, in view of the above, this Court after looking into the complete precedent laws as well as arguments made by learned counsel for the parties finds that the petitioners deprivation on account of technicality of circular dated 4.7.2016 is not appropriate as the circular dated 4.7.2017 does not at all deal with the conditions post-matrimony. The validity of circular has not been gone into as the circular is not under challenge. The condition of matrimony is not dealt with in the circular dated 4.7.2016. Ours is one country and one constitution. Citizenship as per the Constitution is one and, therefore, matrimony cannot be a detrimental factor to a lady only on account that she has changed area and has shifted from her parental family to her matrimonial home.

The purpose of single citizenship of the country is same and cannot be taken away by the respondents on mere technicality. Precedent law is almost

one sided as the Hon`ble Court has time and again held that the matrimony shall entitle the petitioner to all the benefits arising from the region.

Averments made by counsel for the respondents cannot be accepted in the present situation as if the technicality of the circular dated 4.7.2016 is

allowed, then that shall cause serious prejudice to a lady depriving her of the benefit being extended to a particular region. The lady has also shifted to

such permanent home on account of marriage and would be having the same handicap which all other residents of the area shall be suffering. Such

privilege based on region cannot be discriminated on any count or any legal proposition whatsoever.

In light of the aforesaid observations, the writ petition is allowed. The respondents are directed to treat the petitioners as the residents of TSP area and

accord them benefit of bonafide residence certificate and special bonafide residence certificate, which they had attained on account of her husband

being a resident of the same TSP area. The respondents shall consider candidature of the petitioners for appointment as if she stands in merit relating

to TSP in her own category and if she is otherwise eligible for appointment she shall be accorded the same within a period of two months from

today.â??

In view of the above, the writ petition filed by the petitioner stands disposed of with a direction to the respondents to consider the case of the petitioner

in light of the aforesaid precedent law of Smt. Twarita Gehlot (supra), within a period of 30 days from today by passing a speaking order. Necessary

consideration shall made, which shall include issuance of necessary certificate and consideration on eligibility. It is made clear that the necessary

consideration, as stated above, shall include permitting the petitioner for counseling or any other component of the selection process which shall remain

subject to final outcome of the consideration made by the respondents in accordance with the aforesaid order.Â