

(2022) 07 SHI CK 0020

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 4238 Of 2022

Rajat

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 14-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 07 SHI CK 0020

Hon'ble Judges : Sabina, J;Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Donadeep Kaur, Ashwani K. Sharma

Final Decision : Dismissed

Judgement

Sabina, J

1. Petitioner has filed the writ petition under Article 226 of the Constitution of India, seeking the following relief(s):-

"i) A writ of certiorari by declaring the provision No.4 of Notification dated 24.05.2022 which pertains to the clarification of family being illegal and arbitrary as the same encompasses under its definition "land donors or his spouse and their children" and has excluded the grand children which is completely miss-construction and mis-appreciation on behalf of the respondent authorities and hence, be quashed and set aside.

ii) Further, a writ of mandamus be issued by directing the respondent authorities to incorporate the word "grand children" in the term of family defined in provision No.4 of sub-clause (i) in consonance with the policy of ward of freedom fighters, his spouse, their children and their grand-children in order to reap the benefits of ward of freedom fighter.

iii) Further, the respondent authorities be directed to prepare a fresh list by awarding eight marks to the petitioner for donation of land to the school by his

grand-father.”

2. After hearing learned counsel for the parties, we are of the opinion that this petition is liable to be disposed of in terms of the order dated 15.06.2022, passed in CWP No.3728 of 2022, titled Smt. Bhawani Devi versus State of Himachal Pradesh & others. The operative part of the said order reads as under:-

“5. Some clarifications were sought on different issues by various quarters with regard to the allocation of marks and validity of various certificates/documents, etc. In this regard, the impugned clarification was issued on 24th May, 2022. A perusal of the said clarification reveals that a Committee had been constituted to examine the issues raised during recruitment process for engagement of part time multi task workers. On the basis of the recommendation of the Committee a clarification was issued on 24th May, 2022. A perusal of the clarification No.4 reveals that term ‘family’ will be “land owner or his/her spouse or children”. The said clarification has been issued by the respondents with a view to achieve the purpose of the scheme. This Court while exercising extra ordinary writ jurisdiction under Article 226 of the Constitution of India cannot interfere in the meaning given by the respondents vis-à-vis term ‘family’. As per the term ‘family’ defined for the purpose of the policy, petitioner does not fall within the definition of family. The respondents in their wisdom, with a view to effectively implemented the Policy, have defined term ‘family’ vide impugned recommendation dated 24th May, 2022. There is nothing on record to suggest that the definition of term ‘family’ has been given for any mala fide or extraneous consideration.

6. Learned counsel for the petitioner has further submitted that the clarification issued on 24.05.2022 is otherwise bad in law as it amounts to change in rules after initiation of selection process. The contention so raised by the petitioner is liable to be rejected for the simple reason that Clause 7(iv) of the Policy only provided for grant of eight marks to those candidates whose families have donated land for school. The term “families” as noticed above, had been used in general term. No details were provided as to who would be included in the term “families”. In view of this, it cannot be said that there is any change in the rules after initiation of recruitment process. The amendment is only clarificatory in nature and thus cannot be said to be bad in law.

7. In view of the facts and circumstances of the case, we are of the opinion that no ground for interference is made out. The instant petition is dismissed.”

3. In the present case, the land was donated by the grandfather of the petitioner. Thus, petitioner is the grandson of the donor of the land and does not fall within the definition of ‘family’ as per clarification dated 24.05.2022.

4. Accordingly, the instant writ petition is dismissed, so also pending miscellaneous application(s), if any.