
(2020) 02 RAJ CK 0265
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2181 Of 2020

Shabnam Dayar

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 13-02-2020

Acts Referred:

Citation : (2020) 02 RAJ CK 0265

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : MA Siddiqui, Shreyansh Mehta

Final Decision : Dismissed

Judgement

1. By way of the present writ petition, the petitioner has sought consideration of her candidature as a divorcee??.
2. The facts appertain to the present writ petition are that the petitioner applied for the post of Nurse Grade-II pursuant to the advertisement dated 30.3.2018. While furnishing online application form on 3.7.2018, the petitioner filled her category as OBC-NCL-divorcee.
3. When the final merit list was published, the petitioner's category was shown as OBC-NCL Married. Since the petitioner could not find her name in the select list of the divorcee?? candidates, she approached this Court by way of preferring the present writ petition.
4. Mr. Siddiqui, learned counsel for the petitioner argued that the petitioner had filled her form as a divorcee and as such, her candidature ought to have been considered as a divorcee.
5. Mr. Mehta, learned counsel appearing for the respondents on the other hand submitted that though the petitioner has claimed her candidature as a

divorcee, however, neither any document, such as decree of divorce or even an evidence of customary divorce, was attached with the application

form nor were the same produced during verification of the documents. Hence, her candidature was rightly considered as a married woman given the

fact that the petitioner in her own application had shown Mohsin Akhtar to be her spouse.

6. Mr. Siddiqui, learned counsel argued that in case of a muslim woman, no formal decree of divorce is required and hence, the respondents were

required to consider petitioner's candidature as a divorcee. In support of his argument aforesaid, Mr. Siddiqui relied upon the judgment dated

30.1.2019 rendered in the case of Anjum Banu Vs. State of Rajasthan & Ors. (SBCWP No.1649/2019) and another judgment dated 21.4.2017

rendered in the case of Tarannum Khan Vs. State of Rajasthan & Ors. (SBCWP No.16853/2015) and submitted that the petitioner is also entitled to a

direction to the respondents for considering her candidature as a divorcee.

7. Heard.

8. A perusal of the condition no.3(iv) of the advertisement leaves no room for ambiguity that in case of a candidate applying as a divorcee, she will

have to produce a decree of divorce issued by a competent court.

9. Even if the argument of Mr. Siddiqui is accepted that a muslim woman is not required to furnish a decree of divorce, then also, in that case, she has

to assert the date on which her marriage stood dissolved and that the same has been done as per customary law or in accordance with prevalent

customs in Muslims.

10. The petitioner has not only failed to produce any documentary or other evidence showing dissolution of her marriage; she has not even made any

assertion about the date on which her marriage stood dissolved in the entire memo of writ petition.

11. So far as the judgment of this Court rendered in the case of Anjum Banu (supra) is concerned, this Court has given cognizance to a customary

divroce by Talaknama issued by the Quzi and has held that in wake of customary document, such petitioner was entitled to be considered as a

divorcee.

12. Another judgment has been relied upon by Mr. Siddiqui rendered in the case of Tarannum Khan (supra), a perusal of the facts whereof,

particularly, the following para, leaves no manner of doubt that the concerned petitioner has produced a Talaknama before the authorities at the time

of document verification. Following part of the judgment need to be noticed:

“Whether Talaknama is appropriate document or not, is the question raised before this Court. The officer at the time of verification and scrutiny of

the documents, in over zeal insisted that the petitioner must produce decree of divorce and Talaknama is not a proper document. The officer verifying

the document, probably was not aware of the judgment rendered by a co-ordinate Bench of this Court, in the case of Seema Nasib vs. State of

Rajasthan & Ors, 2008 (4) RLW 3477 (Raj.).”

“Be that as it may, since the petitioner has produced Talaknama at the time of verification of documents and as per judgment rendered by the co-

ordinate Bench in the case of Seema Nasib (supra), the same is valid document and the petitioner could not be denied appointment. The respondents

have committed a grave error in cancelling the appointment of the petitioner.”

13. Both the judgments cited by learned counsel for the petitioner are clearly distinguishable.

14. The petitioner has placed for persual of the Court a decree dated 8.3.2019 issued by Court of Third Civil Judge, Division Second, District Mandor

(MP) to assert that she is having a decree of divorce in her favour. Firstly, such decree cannot be given any credence as the same has been issued

after the last date of application form and that too evinces the marriage to have dissolved on 8.3.2019. Hence, on the date of filing her application

form, the petitioner cannot be treated to be a divorcee.

15. As a result of discussion aforesaid, this Court does not find any force and substance in this petition for which it is dismissed.

16. The stay application also stands disposed of accordingly.