
(2007) 11 AHC CK 0110
In the Allahabad High Court
Case No : Special Appeal No. 1476 of 2007

Shalita Gupta (Smt.)

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 06-11-2007

Acts Referred:

Citation : (2007) 11 AHC CK 0110

Hon'ble Judges : Anjani Kumar, J and Pankaj Mithal, J

Final Decision : Dismissed

Judgement

Anjani Kumar and Pankaj Mithal, JJ.—The appellant Smt. Shalita Gupta has preferred this appeal against the judgment and order of the learned Single Judge dated 21.9.2007 passed in Writ Petition No. 68239 of 2006 whereby the petition of the respondent No.6 Smt. Seema Arya has been allowed, the order of the District Magistrate dated 15.9.2006 has been quashed and it has been held that the appointment of appellant as Shiksha Mitra is illegal.

2. According to the appellant, Smt. Shalita Gupta in pursuance to the advertisement published on 31.2.2005 was selected for appointment as Shiksha Mitra for village Khirkia, district Kushinagar. Against her above selection, the respondent No. 6 Smt. Seema Arya represented to the District Magistrate contending that respondent No. 6 was married on 13.1.2005 to one Sanjai Gupta resident of village Dudhai, district Kushinagar. Therefore, she has ceased to be the resident of village Khirkia on marriage and as such could not have been selected for the post of Shiksha Mitra. The District Magistrate vide order dated 15.9.2006 impugned in the writ petition held that the respondent No. 6 despite marriage continues to have with her father in village Khirkia and therefore, her appointment is not illegal. On a petition being preferred by respondent No. 6 against the aforesaid order of the District Magistrate, the learned Single Judge allowed the writ petition in view of the decision of this Court in Civil Misc. Writ Petition No. 63709 of 2006, Pooran Devi v. State of U.P. wherein it has been held that after the marriage the lady ceases to be the resident of the village of her

parents and normally she should be treated to be the resident of the village of her husband. Accordingly, the learned Single Judge held that the appellant was no longer resident of village Khirkia after the marriage and as such her selection as Shiksha Mitra was bad. The Division Bench of this Court in the case of Smt. Kiran Yadav v. Smt. Santoshi Devi and others, 2007 (8) ADJ 363 (DB), also took the view that a lady candidate for appointment as Shiksha Mitra shall be treated to be the resident of the village of her husband irrespective of the fact of nonperformance of "Gauna", a ceremony of sending the girl to her husband's place after marriage. Learned Counsel for the appellant has submitted that the appellant continues to be a resident of village Khirkia wherein her parents reside as "Gauna" had not taken place. Admittedly, the appellant was married on 13.1.2005 much before the issuance of the advertisement. Therefore, the presumption is that on marriage she ceased to be the resident of the village of her parents and became the resident of the village Dudhai wherein her husband resides. The fact that the "Gauna" has not taken place makes no difference, as it is not the case of the appellant that her marriage has broken down. There are no other special features to rebut the presumption of change of residence of the petitioner with the marriage.

3. In view of the above, we are of the opinion that the learned Single Judge committed no error in allowing the writ petition and treating the appellant as resident of the village Dudhai which is the place or residence of her husband. Therefore, there is no reason to interfere. The appeal lacks merit and is dismissed. Special appeal dismissed.