
(2020) 02 RAJ CK 0590
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2320 Of 2020

Sunil Kumar

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 26-02-2020

Acts Referred:

Rajasthan Land Revenue (Land Records, Settlement and Colonization) Subordinate Service Rules, 2019 — Rule 30, 30(4)

Citation : (2020) 02 RAJ CK 0590

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : S.D. Goswami

Final Decision : Dismissed

Judgement

1. The petitioner has preferred the present writ petition, inter-alia, seeking a direction to respondents to permit him to fill offline application form.

2. Concededly the petitioner has four children and thus, he is ineligible/disqualified to be appointed on the post of Patwari in the teeth of sub-rule(4) of

Rule 30(4) of the Rajasthan Land Revenue (Land Records, Settlement and Colonization) Subordinate Service Rules, 2019, (for short, 'Rules of

2019') which reads thus:

'(4) No candidate shall be eligible for appointment to the Post of Patwari who has more than two children on or after 1.6.2002:

Provided that -

(i) the candidate having more than two children shall not be deemed to be disqualified for appointment so long as the number of children he/she had on

1st June, 2002, does not increase;

(ii) where a candidate has only one child from earlier delivery but more than one child are born out of a single subsequent delivery, the children so

born shall be deemed to be one entity while counting the total number of children;

(iii) the provision of this sub-rule shall not be applicable to the appointment of a widow under the provisions of the Rajasthan Compassionate

Appointment of Dependents of Deceased Government Servants Rules, 1996;

(iv) while counting the total number of children of a candidate, the child born from earlier delivery and having disability shall not be counted.

(v) any candidate who has performed remarriage which is not against any law and before such remarriage he is not disqualified for appointment under

this sub-rule, he shall not be disqualified if any child is born out of single delivery from such remarriages.â??

3. Inviting Courtâ??s attention towards the facts of the case, which are a but peculiar, learned counsel for the petitioner submitted that petitioner has

two daughters from his first wife Suman, whose dates of birth are 18.01.2003 and 13.01.2007, respectively; who passed away on 14.01.2010.

4. After the death of his first wife Suman, petitioner contracted marriage with Smt. Sunita, who gave birth to two sons, viz., Keshav Puri and Nitin

Puri on 21.06.2012 and 12.06.2014, respectively.

5. An argument has been advanced by learned counsel for the petitioner that petitioner should not be treated to be disqualified as his 3rd and 4th

children, namely, Keshav Puri & Nitin Puri were born out of his wedlock with Smt. Sunita, who also has right to procreate. According to him, if the

petitioner is denied right to apply for the post of Patwari pursuant to advertisement dated 17.01.2020, then it will be violation of not only

petitionerâ??s rights but also of the rights of his wife-Sunita. It was also argued that for the purpose of Rule 30 of the Rules of 2019, the petitioner

should be considered to have two children only, to impress upon the Court to pass an interim order provisionally permitting petitioner to fill offline

application form.

7. Heard.

8. A perusal of sub-rule 4 of Rule 30 leaves no scope for ambiguity that in case a candidate has more than two children after 01.06.2002, he will be

disqualified for appointment under the Rules of 2019. Admittedly, the petitioner

already had two daughters out of his wedlock with Smt. Suman, whereafter he fathered two sons in the year 2012 and 2014, of course out of his subsequent marriage with Smt. Sunita.

9. It is clear that petitioner's number of children has increased to four after the year 2002 and thus, he is not entitled for appointment in the face of

Rule 30(4) of the Rules of 2019.

10. May be, his wife Sunita can claim her right of appointment as number of children she gave birth to are two, but petitioner cannot claim right of appointment under the guise of purported right of his wife.

11. This Court finds no substance in the petition. Resultantly, the writ petition is dismissed.

12. Stay application also stands dismissed.