

Court No. - 35

Case :- WRIT - A No. - 17001 of 2023

Petitioner :- Smt. Jyoti

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Kartikeya Saran,Ujjawal Satsangi

Counsel for Respondent :- C.S.C.

Hon'ble Vikas Budhwar,J.

Heard Sri Ujjawal Satsangi, learned counsel for the petitioner and Sri Saurabh learned Standing Counsel, who appears for respondents 1 to 4.

Notices be issued to the fifth respondent however on 3.11.2023 there is an office report dated 30.11.2023 services of the fifth respondent is confirmed.

In view of the order, which is being proposed to be passed today, notices are not being issued to the sixth respondent.

The case of the writ petitioner is that her husband namely Sanjay (Since deceased) who was working as a Sweeper/Chowkidar in the fourth respondent, institution, Government Girls Inter College, Mohalla Khadi, Baruasagar, District Jhansi died in harness on 27.12.2001. The writ petitioner claims to be the second wife of the deceased whose married stood solemnized on 24.7.2016. The fifth respondent, Smt. Meera is claimed to be the first wife who is further claims to be mother of one Sri Arun, sixth respondent.

According to the writ petitioner, the fifth respondent went missing since 8.5.2009 however appropriate proceedings were drawn and also constant search was being made to trace out her whereabouts however since when she did not return then the writ petitioner claims to have married the deceased and was blessed with one daughter namely Km. Ria. Since terminal dues as well as compassionate appointment was not being processed so the writ petitioner claims to have preferred Writ-A No.20855 of 2022 which came to be disposed of on 14.12.2022 requiring the competent authority to pass an order.

In the meantime, Smt. Meera fifth respondent also preferred Writ-A No.12899 of 2023 also claiming the rights which came to be

disposed of on 8.8.2023 now thereafter the order impugned has been passed by the Principal, Government Girls Inter College, Mohalla Khadi, Baruasagar, District Jhansi, fourth respondent on 24.8.2023. Questioning the said order the writ petitioner has preferred the present writ petition.

Learned counsel for the writ petitioner while assailing the said order submits that the fifth respondent was under legal obligation to adjudicate the rights and to have passed an order and it was not open for him to direct the parties to obtain succession certificate as the said procedure is totally unknown and unwarranted to service jurisprudence in the case of compassionate appointment. He seeks to rely upon a decision of the coordinate Bench of this Court in **Writ-A No.7454 of 2020, Shakeel Khan vs. State of U.P. and 3 others** decided on **12.10.2020**. He further submits that in view of the findings so recorded in the order impugned that the name of Smt. Meera, fifth respondent does not find place in the nomination column and a request has been made to enter her name and the writ petitioner is legally wedded wife then the writ petitioner claims ought to have been considered. According to him the fifth respondent is an imposter as neither in the Pariwar Register nor from the verifiable records it can be presumed that she is the same Meera who had went missing for a long span of period.

Learned Standing Counsel on the other hand submits that he does not dispute the proposition of law laid down in the case of **Shakeel Khan (Supra)** however according to him the facts are somewhat distinguishable particularly when in the said case there was a finding recorded by the Court that both the claimants being member of the family of the deceased employee which was admitted to the parties. However, according to him there is a distinguishable feature that here there is a dispute regarding the fact as to whether the fifth respondent Smt. Meera is the legally wedded of the deceased or not. He further submits that once there are conflicting claim that to contested one then obviously the fifth respondent is not a competent authority to adjudicate upon the same as the fifth respondent does not possess a independent machinery or a mechanism as it relies upon the documents and the inquiry report so submitted by the State/ District Administration or Authorities. According to him the chances of the writ petitioner have not been blocked from time immemorial however the writ petitioner is being required by virtue of the order to approach the competent authority for seeking succession certificate.

Accordingly, having heard the learned counsel for the parties and perusing the record, the Court finds that since there is a serious

dispute as to whether the fifth respondent Smt. Meera is the same woman who claims to be the wife of the deceased thus, in the aforesaid factual background without going into the merits of the matter and deciding the entitlement of the parties which in the opinion of the Court is not appropriate in the present proceedings, liberty is accorded to the writ petitioner to approach the competent authority while taking recourse to the appropriate proceedings for getting succession certificate in that regard by the competent court of law.

Needless to point out that in case such a motion is moved by the writ petitioner the Court has no reason to believe that the same will be taken to its logical end in accordance with law with most expedition looking into the claim of the deceased widow regarding terminal benefits and compassionate appointment.

With the aforesaid observation, the writ petition is **disposed of**.

Order Date :- 11.12.2023

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