



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.08.2016
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
W.P. (MD).No.15918 of 2016

WEB COPY

Vijayaradha

... Petitioner

vs

1.The Dean

Thirunelveli Medical College and Hospital
Thirunelveli

2.The Nursing Superintendent

Thirunelveli Medical College and Hospital
Thirunelveli

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the proceedings of the first respondent in O.Mu.No.2681/Ne310/2016, dated 21.03.2016 and quash the same and to consequently direct the respondents to nominate the petitioner's second husband namely Vijayakumar as the nominee of the petitioner.

For petitioner : Mr.P.Samuel Gunasingh

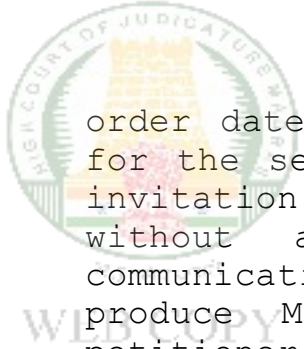
For Respondents: Mr.R.Anandharaj
Standing Counsel

O R D E R

Mr.R.Anandharaj, learned Government Advocate, takes notice for the respondents. With the consent of both parties, this writ petition is taken up for final hearing at the admission stage itself.

2. The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the impugned order, dated 21.03.2016, passed by the first respondent and to direct the respondents to nominate the petitioner's second husband, namely, Vijayakumar as her nominee.

3. According to the petitioner, she is working as a Staff Nurse in the respondents' Medical College and Hospital and she got judicial separation from her ex-husband M.Gajendran, by order dated 03.06.2010, passed by the learned Subordinate Judge, Tambaram, in H.M.O.P.No.563 of 2009. Subsequently, she got married with K.Vijay Kumar, on 04.07.2010, after completing all the ceremonies and rituals as per the Hindu Marriage Act, 1955. Thereafter, on 15.09.2011, she made a representation to the respondents seeking cancellation of the earlier nomination and to nominate K.Vijay Kumar as her nominee. The first respondent, by



order dated 28.09.2011, directed the petitioner to produce proof for the second marriage. Accordingly, she produced the marriage invitation and copy of the photos taken during marriage. However, without accepting the same, the first respondent, vide communication, dated 15.11.2011, directed the petitioner to produce Marriage Certificate and Ration Card. Though the petitioner produced Ration Card, Adhar Card and Voters' Identity Card, showing Vijay Kumar as her second husband, she had not produced Marriage Certificate as their marriage was not registered. However, the first respondent, by the impugned order, dated 21.03.2016, refused to accept the same and rejected her representation. Challenging the same, she has filed this writ petition.

4. The learned Government Advocate appearing for the respondents submitted that though the petitioner produced the Divorce Decree, Ration Card, Adhar Card and Voters' Identity Card in support of her claim, it is not known whether her second marriage with Vijay Kumar was solemnized as per the Hindu Marriage Act, 1955 and therefore, the first respondent has insisted upon the Marriage Certificate.

5. A perusal of the Divorce Decree, dated 03.06.2010, passed in H.M.O.P.No.563 of 2009, by the learned Subordinate Judge, Tambaram, clearly shows that the marriage between the petitioner and Gajendran held on 11.09.1991 was dissolved by mutual consent and they got separated. Further, on perusal of the Adhar Card, Ration Card, Voters' Identity Card and Bio-Data enclosed in the typed set of papers, it is seen that Vijay Kumar is shown as the husband of the petitioner. In such circumstances, the first respondent shall not insist upon the Marriage Certificate and consider the petitioner's claim based on those documents. Therefore, this Court has no hesitation to interfere with the impugned order passed by the first respondent.

6. In the result, the writ petition is allowed and the impugned order, dated 21.03.2016, passed by the first respondent is set aside. The first respondent is directed to accept the Divorce Decree, dated 03.06.2010, passed in H.M.O.P.No.563 of 2009, by the learned Subordinate Judge, Tambaram, Ration Card, Voters' Identity Card, Adhar Card, showing Vijay Kumar's name as the husband of the petitioner, and record his name as her nominee in the service records without any further delay.

Sd/-
Assistant Registrar(Records)

/TRUE COPY/

Sub Assistant Registrar



To:

1.The Dean,
Thirunelveli Medical College and Hospital,
Thirunelveli.

2.The Nursing Superintendent,
Thirunelveli Medical College and Hospital,
Thirunelveli.

+1cc to M/S.P.SAMUEL GUNASINGH,ADVOCATE, SR NO:48002

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 47701

krk

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26.08.2016