

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3291/2019

Nirmala Suesh Jadhav...Versus... Gajanan Mahadeo Jadhav and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M.Ghare, Advocate for petitioner
Mr. J.B.Gandhi, Advocate for Respondent No.1
Mr. A.A.Madiwale, AGP for Respondent Nos. 2 and 3

CORAM : AVINASH G. GHAROTE, J.
DATE : 10/12/2021

Heard Mr. Ghare, learned counsel for the petitioner, Mr. Gandhi, learned counsel for Respondent No.1 and learned AGP for Respondent Nos.2 and 3.

The concurrent findings recorded by Respondent Nos. 2 and 3 holding that the petitioner stood disqualified under the provisions of Section 14(1)(j-i) of the Maharashtra Village Panchayat Act, 1959, for having begotten three children has been challenged in this petition.

Mr. Ghare, learned counsel for the petitioner submits that the petitioner is claimed to have three children; (a) Anusaya born on 23.03.2008, (b) Radhika born on 21.11.2009 and (c) Abhishek born on 12.08.2012, out of which the person at Sr.No. (b) Radhjika was not the daughter of the petitioner, but the daughter of sister-in-law

namely Nirmala w/o Bhagawan Jadhav. He submits that Nirmala prior to her marriage was also known as Vandana, and Radhika in fact was the daughter of Nirmala, for which reliance is placed upon the birth certificate issued by Reynolds Memorial Hospital and Affiliated Clinics, Washim (page 19) which records that a female child Baby Jadhav was born to Bhagwan Jadhav and Nirmala Jadhav on 21.11.2009, which, according to him, is the clinching proof coupled with the date of birth certificate issued by the Washim Municipal Council under the provisions of the Registration of Births & Deaths Act, 1969 (page 22), which also records the above position. He therefore submits that the finding rendered by the authorities below was by misconstruing this position, as against the plea advanced that Radhika was the daughter of the petitioner. He therefore submits that the impugned order disqualifying the petitioner cannot be sustained.

Mr. Gandhi, learned counsel for Respondent No.1 on the other hand places reliance upon the birth certificate issued by the very same Reynolds Memorial Hospital and Affiliated Clinics, Washim, which indicates that Baby Jadhav, a female child was born to Nirmala w/o Suresh Jadhav on 21.11.2009. He further places reliance upon the permanent OPD register of Reynolds Memorial Hospital, which indicates that on 20.11.2009, Nirmala Suresh Jadhav was admitted in the said hospital and the Discharge Summary, dated 22.11.2009 (page 78) which

indicates that a child was born to Nirmala Bhagwan on 21.11.2009 at 4.55 a.m. (page 79). Reliance is also placed on a certificate (page 82) issued by the Reynolds Memorial Hospital, dated 06.12.2017 certifying that in the original register maintained by the Hospital, as to the discharge card, the name of the father which was earlier Nirmala Suresh Jadhav was changed to Nirmala Bhagwan Jadhav on 21.11.2017, on the request of the petitioner on the basis of a certificate issued by the Nagar Parishad, Washim (page 22). He therefore submits that the original register showed that a female child was born to the petitioner on 21.11.2009 and not to Nirmala w/o Bhagwan Jadhav and therefore, the finding arrived at by the authorities below could not be faulted with.

Having heard the learned counsel for the parties, it is apparent that the finding rendered by the authorities below that a female child was born to the petitioner on 21.11.2009 is required to be sustained, as it is based upon not only the entries made in the register of the Reynolds Memorial Hospital, but the authorities below have also taken into consideration the report of the Anganwadi Sewika, Umra, which indicates that the record maintained under the scheme for providing nutrition to pregnant woman records that Nirmala Suresh Pardhi was pregnant on 20.5.2009 and had visited the centre for the second time on 20.5.2009 (page 88 and 90). An entry of this birth has also been made in the register as maintained

by the Anganwadi Sewika of a child having been born to the petitioner on 21.11.2009. These entries in fact substantiate the conclusions reached by the respondent Nos. 1 and 2.

Though an attempt has been made by Mr.Ghare, learned counsel for the petitioner to submit that the child born on 21.11.2009 was in fact to Nirmala Bhagwan Jadhav, the certificate issued by the Hospital clearly belies the story, for the reason that the certificate dated 06.12.2017 categorically records that the name of the mother as recorded in the original register was Nirmala Suresh Jadhav and not Nirmala Bhagwan Jadhav and the change from Suresh to Bhagwan came to be effected only in the year 2017. That apart, no corresponding entries of Nirmala Bhagwan Jadhav having been pregnant at that point of time have been placed on record to indicate that a female child was also born to her on the same date.

Much reliance has been placed upon the affidavit dated 29.11.17 sworn by Vandana @ Nirmala Bhagwan Jadhav claiming that it was she who was admitted to the Reynolds Memorial Hospital on 21.11.2009 and had given birth to a female child on the same day. However, in view of the entries as recorded by the Anganwadi Sewika in respect of the scheme being implemented as indicated, as well as the certificate dated

6.12.2017 issued by the Reynolds Memorial Hospital, no reliance can be placed upon the same.

This being the position, I do not see any reason to interfere with the findings as recorded by the authorities below, which are based upon the documents which indicate the birth of a female child to the petitioner on 21.11.2009 and the birth of Anusaya on 23.03.2008 and Abhishek on 12.08.2012 not being disputed, the conclusions drawn regarding violation of mandate of Section 14 (1)(j-i) of the M.V.P Act cannot be faulted with. The petition therefore is without any merits and is dismissed.

JUDGE

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