

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.186 of 2016

In
Civil Writ Jurisdiction Case No.6930 of 1999

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1. The Union Of India through the Secretary, Ministry of Home Affairs, Freedom Fighter Division, Arya Samaj Cell, Lok Nayak Bhawan, Khan Market, New Delhi
 2. The Joint Secretary, Union of India, Ministry of Home, Freedom Fighter Division, Arya Samaj Cell, Lok Nayak Bhawan, Khan Market, New Delhi at present 2nd Floor, NDCC-II Building, Jai Singh Road New Delhi- 110001
 3. The Union Secretary, Union of India, Ministry of Home, Freedom Fighter Division, Arya Samaj Cell, Lok Nayak Bhawan, Khan Market, New Delhi at present 2nd Floor, NDCC-II Building, Jai Singh Road New Delhi- 110001

... .. Appellant/s

Versus

Mostt. Ram Pyari @ Muli Devi Wife of Late Prayag Sah Arya, Resident of Ahirpurwa, P.O.- Arrah, P.S.- Arrah, District- Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Dr. K.N.Singh, Addl.S.G. Mr. Manoj Kumar Singh, CGC
For the Respondent/s	:	Mr. Anish Chandra Sinha, Advocate Mr. Krishna Murari Raut, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-09-2023

1. The petitioner is aggrieved with the fact that her husband who is said to have associated himself with the Arya Samaj movement in the State of Hyderabad; which is treated at par with the freedom fighters movement, has not been granted freedom fighters pension by the Central Government. The petitioner's husband is said to have been arrested and convicted and sentenced for one and half years. He was imprisoned in the



Central prison at Hyderabad but the date of release is not mentioned. It was also contended that he was released as per the orders of the Nizam.

2. Learned Single Judge found that he had produced the certificate issued by the Jail Superintendent as well as the certificate issued by the co-accused Sri Ram Narayan Prasad and others who were getting pension under the scheme and were imprisoned along with him in the Central prison at Hyderabad. The learned Single Judge found that since he was released on account of the Nizam's birth day, he is entitled to the benefit under the scheme going by the decision of the **Surja and others versus Union of India and another [(1991) 4 SCC 366]** which held that any person who was associated with the Arya Samaj movement in the State of Hyderabad and had completed six months imprisonment, would be entitled to pension under the scheme. The learned Single Judge found that persons who were convicted for higher period but released on account of birth day of Nizam will not make him disentitled to the benefit.

3. It is immediately noticed that the petitioner herself produced Annexure-6 judgment of a Single Judge of this Court in a writ petition filed by her for identical relief wherein the learned Single Judge had found that if the petitioner's husband



had served imprisonment at Hyderabad then necessarily there should be a recommendation issued from the Government of Andhra Pradesh. Finding no such recommendation the writ petition was rejected. The writ petitioner produces the judgment and contends that there is no such recommendation required for grant of family pension. If that was the contention, the petitioner should have taken an appeal from Annexue-6 judgment and could not have approached this Court with a further writ petition; which was allowed by the learned Single Judge.

4. We find absolutely no reason to entertain the subsequent writ petition especially in the context of the dismissal of the earlier writ petition for the very same relief.

5. The appeal is allowed and the impugned judgment is set aside, dismissing the writ petition.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Bibhash/Saurabh

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CAV DATE	
Uploading Date	08.09.2023
Transmission Date	

