

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri.**

W.P.A. 214 of 2023

**Smt. Shila Sarkar Das @ Shila Das Sarkar
-Versus-
The State of West Bengal & Ors.**

**For the Petitioner : Mr. Kumar Shantanu, Adv.
Mr. Abhishek Sarkar, Adv.**

**For the State : Mr. Hirak Barman, Adv.
Ms. Bedashruti Bose, Adv.**

Heard & Judgment On : 3rd February, 2023.

It is not in dispute that the petitioner is the second wife of one Dukhiram Das, since deceased. During his lifetime, Dukhiram Das was an employee of Sericulture Department, Jalpaiguri in the capacity of Rearer cum Mali. Dukhiram had married before marrying to the present petitioner. The name of the first wife of Dukhiram is Fulmala Das. Indisputably, the said marriage between Dukhiram and Fulmala was dissolved by a decree of divorce. Subsequently, Dukhiram married to the present petitioner under Hindu Rites and Ceremonies on 30th May, 2014. After the death of Dukhiram, the petitioner prayed for death cum other benefits by filing an application to the respondent Nos.3 & 4. Since the petitioner's application was not taken care of, she moved a

writ petition before this Court being WPA 602 of 2021. The said writ petition was disposed of directing the respondent authorities to consider the prayer of the petitioner. In terms of the said prayer, the respondents considered the prayer of the petitioner and the said prayer was again rejected.

Being aggrieved, the petitioner has filed the instant writ petition.

It is submitted by the learned State Advocate that after performing second marriage, Dukhiram did not insert the name of the petitioner in his service book as a nominee and, therefore, the department is facing problem in granting death-cum-other benefits to the present petitioner.

It is true that the deceased husband of the petitioner did not change the relevant entry in the service book by expunging the name of her divorced wife and inserting the name of the present petitioner.

It is not known as to whether the said divorced wife of the deceased made any claim for having death benefit of the deceased husband of the petitioner. In any event, the said divorced wife of the deceased employee is not entitled to get any benefit because she was divorced by the deceased husband and the decree of divorce has been filed by the present petitioner. The decree was passed on 24th September, 2013, before the marriage of the petitioner with the deceased. In the said wedlock, the petitioner gave birth to a female child. In the birth certificate, the name of the deceased is recorded as the father of the child. In all relevant documents like Aadhar Card,

Ration Card, Voter Identity Card etc. the deceased was shown as the husband of the petitioner.

It is already recorded that the deceased married the petitioner under Hindu Marriage Act. There is no provision of compulsory registration of Hindu Marriage under the statute.

In view of such circumstances, the respondent authority, specially, the respondent No.4 is directed to reconsider the prayer of the petitioner taking the above documents as proof of marriage between the parties and pass a reasoned order within four weeks from the date of this order positively. The order shall be communicated to the petitioner within one week thereafter.

In view of the above order, the order dated 6th December, 2022 passed by the Deputy Director, Textiles, Sericulture Department, Jalpaiguri is quashed.

The time limit granted to the respondents is peremptory and mandatory and there will not be any extension of time on any reason whatsoever.

The instant writ petition is, thus, disposed of, however without costs.

(Bibek Chaudhuri, J.)

***Mithun
Ct No.2.
Sl No.16.***