

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7276 of 2024

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1. Rabiya Khatoon wife of Zarar Ahmad 180, Paraini West, P.S. Jagdishpur, Puraini Bhagalpur, Purnia, Bihar-812005.
 2. Gita Yadav, wife of Narayan Prasad Yadav, Gautam Nagar, P.S. Saharsa, Ganjala, Ward No. 15, Saharsa, Bihar-852201.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
3. The Joint Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
4. The Deputy Secretary, Department of Social Welfare, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y.G.Giri, Sr. Advocate Mr.Ashish Giri,, Advocate Mr. Arbind Kumar, Advocate Mr. Shambhu Shankar Thakur, Advocate Mr. Saunil Kumar Jha, Advocate Ms. Riya Giri, Advocate
For the State	:	Mr. P.K.Shahi, A.G. Mr. Manish Dhari Singh, AC to AG
For the UOI	:	Mr. Ram Anurag Singh, CGC

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2024

The petitioners are concerned with the amendments brought about to the Bihar State Commission for Women Act, 1999 (for brevity ‘Act of 1999’). The grievance of the petitioners projected, while challenging the *vires* of the



Amendment Act, 2024, is that the petitioners who are Members of the Bihar State Commission for Women (for brevity 'Commission'), were abruptly and unceremoniously terminated by a provision, which brought in statutory dissolution of the Commission itself. The petitioners' contention is that the said amendment is ill-motivated and influenced by political considerations; in the context of the changed alliance of the ruling front.

2. The specific challenge raised is with respect to Section 3(2) of the Bihar State Commission for Women (Amendment) Act, 2024. The aforesaid provision provided that with effect from the date of enforcement of the amending Act, the existing Commission would stand dissolved and on its dissolution, the State Government would appoint an Administrator to manage the affairs of the Commission, who shall not be below the rank of the Secretary to the Government and the State Government would have the authority to issue directions/advisory to the Administrator, which would be binding on him or her. A further provision was introduced as sub-section(3) under Section 4 of the Act of 1999, conferring on the State Government the power to dissolve the Commission at any time, on satisfaction that the dissolution is



in larger public interest, to make the functioning of the Commission, consistent with the aim and object of the Act; which power was notwithstanding the prescribed tenure of the Commission.

3. It is trite that, when a power is conferred on the Government to constitute a Commission necessarily, there should be read into the provisions a power to dissolve the Commission also; which was not available in the original Act. The introduction of such a provision that too hedged in by the condition that the power to dissolve, would be exercised only in the larger public interest, makes it clear that it cannot be struck down as invalid.

4. We are of the opinion, on a combined reading of the Amendment Act that the statutory dissolution of the Commission is also not invalid. The intention of the Amendment Act, as is available from the Preamble, is that the present times bring forth new dimensions in the protection of women, their advancement, participation etc. emerging out of the various government policies and judicial pronouncements. Referring also to the Protection of Children from Sexual Offences Act, 2012 and the Bihar Caste Based Survey of 2022-23, the Government was of the opinion that there should



be a re-look into the economic and social condition of the citizens, residing within the State, with special emphasis on improving the condition of women. It is to re-organise and restructure the Women Commission, to provide for an effective management of various legal provisions enacted for the protection and welfare of women that the amendment is proposed.

5. The amendment also by introduction of Chapter-IVA and Section 14A, provides for constitution of a Committee of experts to suggest measures to be adopted for re-structuring and re-organising the functioning of the Commission. The Committee would consist of five members, of which at least one would have extensive knowledge of management of various legal provisions dealing with women. The Committee has to submit a report to the State Government within one month, which the State Government may accept, subject to any modification, necessitated. The State Government is also obliged to endeavour to implement the recommendations by way of issuance of orders/ notification/ resolution. Sub-clause(iv) of Section 14A also provides that one month from the date of constitution of the Expert Committee, the State Government would constitute the



Commission within a maximum period of two months under Section 3 of the Act.

6. The petitioners having no vested right to continue in the role of the Commission and the object of the Act is also not to provide such membership to the petitioners. The grounds raised by the petitioners on unconstitutionality has not been substantiated, as has been held in ***Shayara Bano v. Union of India, (2017) 9 SCC 1***. In addition to lack of legislative competence and violation of fundamental rights or of any other constitutional provision, there also exists a ground; of arbitrariness, to challenge a legislation. The legislative competence cannot at all be doubted. The violation of constitutional provision has not been substantiated; but for a mere statement of unconstitutionality. Arbitrariness of a legislation, as has been held in ***Shayara Bano*** (supra), is read into Article 14, which also cannot be a valid ground in the challenge of the instant Amendment Act. As we noticed at the outset, the challenge is only on the abrupt cessation of the membership of the petitioners; by a statutory dissolution, which cannot at all be faulted or found to be arbitrary or even stated to be in derogation of the objects of the statute.

7. Constitutionality of a statute is to be



presumed and the burden of proof rests heavily on the person questioning the constitutionality, on any ground including that of arbitrariness. The petitioners have miserably failed to make out a case of arbitrariness, especially since the ground raised is only of an abrupt cessation of their memberships.

8. We find absolutely no reason to interfere with the amendments made, the writ petition stands dismissed.

(K. Vinod Chandran, CJ)

Partha Sarthy, J: I agree.

Sujit/-

(Partha Sarthy, J)

AFR/NAFR	NAFR
CAV DATE	27.11.2024
Uploading Date	11.12.2024
Transmission Date	

