



RAJASTHAN HIGH COURT

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5078/2018

Smt. Vandana W/o Bajrang Singh D/o Kalyan Singh, aged about 27 years, R/o Vill. & Post Kali Pahadi, Via Islampur, District Jhunjhunu (Raj.).

-----Petitioner

Versus

1. State of Rajasthan through Principal Secretary, Department of Medical and Health, Govt. of Rajasthan, Govt. Secretariat, Jaipur.
2. Director, Medical and Health Service, Govt. of Rajasthan, Jaipur.
3. District Collector, District Jhunjhunu.
4. Chief Medical and Health Officer, Jhunjhunu.
5. Dy. Chief Medical and Health Officer, Jhunjhunu.
6. Block Chief Medical and Health Officer, Jhunjhunu.

-----Respondents

For Petitioner(s) : Mr.Intjar Ali, Advocate.
For Respondent(s) : Mr.Bharat Saini, Addl. Govt. Counsel.

HON'BLE MR. JUSTICE ANOOP KUMAR DHAND

RESERVED ON : 29/01/2024
PRONOUNCED ON : 12/02/2024

Order

REPORTABLE

1. The issue involved in this matter is “whether breach of promise by the Government to common people amounts to violation of doctrine of “legitimate expectation” and “promissory estoppel”?



2. The instant writ petition has been filed by the petitioner with the following prayer:-

“(i) issue an appropriate writ, order or direction in the nature thereof, respondents may kindly be directed to issue the Jyoti Card to the petitioner and further extend the benefit admissible under the ‘Jyoti Yojna’ to the petitioner and refund the fee and other expenses incurred by the petitioner on her academic education from secondary to senior secondary and GNM Course.

(ii) Any other order or direction, which this Hon’ble Court may deem just and proper, may also kindly be passed in the facts and circumstances of the case with costs.”

3. By way of filing this writ petition, the petitioner is seeking direction against the respondents for refund of the fees and expenses incurred by the petitioner in her education in pursuance of the Government Scheme “Jyoti Yojna”.

RIVAL SUBMISSIONS:

4. Counsel for the petitioner submits that a Circular was issued by the Department of Medical and Health, Government of Rajasthan, Jaipur on 19.08.2011 by which a beneficiary Scheme in the name of ‘Jyoti Yojna’ was introduced for granting benefits and empowering those females who gave birth to one or two girl child and voluntarily underwent the process of sterilization thereafter. Counsel submits that the petitioner, while relying upon the “Jyoti Yojna”, underwent the process of sterilization after giving birth to a girl child for seeking the benefit of the said Scheme and thus, as per the Circular dated 19.08.2011 she was entitled to get the benefit of free education upto her post graduation and further education of ANM/GNM (Auxiliary Nursing and Midwifery/General Nursing and Midwifery) and B.Sc. Course. Under the “Jyoti Yojna”



free medical facilities were provided to the families of the beneficiaries in Government Hospitals and such females were given priority in getting appointment on the post of Asha Sahayogini, Anganbari Worker, ANM and GNM etc. Counsel submits that after birth of the girl child, the petitioner undertook the studies of Secondary, Senior Secondary and GNM Course in which she incurred several expenses towards her education. Counsel submits that the respondents have failed to provide the benefits of the aforesaid Circular to the petitioner for the reasons best known to them, hence, under these circumstances, the respondents be directed to provide all the admissible benefits to the petitioner under the 'Jyoti Yojna' Scheme and refund the fees and expenses incurred by her in her education from Secondary (Class X) to GNM Course.

5. Per contra, counsel for the respondent-State opposed the arguments raised by counsel for the petitioner and submitted that the aforesaid Scheme was closed by the respondent-State in the year 2016 and the petitioner was informed accordingly by way of issuing U.T.I. Bond in the name of daughter of the petitioner. Hence, the petitioner is not entitled to get the relief, as sought in this writ petition.

6. Heard and considered the submissions made at Bar and perused the material available on record.

BIRD'S EYE VIEW OF THE CONTROVERSY:

7. The Department of Medical, Health and Family Welfare, Government of Rajasthan issued a Circular on 19.08.2011 in the



name and style "Jyoti Yojna" for providing certain benefits to those females, who have one or two daughters and who have underwent the operation of sterilization. After undergoing the process of sterilization, such females would be entitled to get the following benefits:-

- I. Preference and free education upto post-graduation studies.
- II. Preference in selection process of Asha Sahayogini, ANM and GNM.
- III. Preference and free education in ANM, GNM and B.Sc. Nursing Courses.
- IV. Free medical and health facilities in government hospitals.

8. The object of the "Jyoti Scheme" are as follows:-

- I. Upliftment/Empowerment of women.
- II. To help the small unit families.
- III. To give solution in upbringing of female children.
- IV. To maintain gender equality.

9. The petitioner, who was having one girl child, while relying upon the provisions of the Circular dated 19.08.2011 and promise of the Government of Rajasthan to get the benefits of the "Jyoti Scheme", underwent the sterilization operation on 16.07.2012 and the "Jyoti Card" was issued to her on 26.01.2013. Thereafter, the petitioner undertook the studies of Class-X to GNM. The petitioner bore the whole expenses of her studies. The petitioner submitted



several applications to the authorities for grant of scholarship and payment of the educational fee and other expenses. The matter of the petitioner was dealt with by the Chief Medical and Health Officer and the Deputy Chief Medical and Health Officer, Jhunjhunu and the same was referred to the Director, Medical and Health Services vide letters dated 05.06.2015 and 13.08.2015 but no heed was paid by the authorities for doing the needful and for providing the benefits of the Government Scheme "Jyoti Yojna" to the petitioner. Hence, under these compelling circumstances, the petitioner has approached this Court with the above prayer for refund of the fee and expenses, incurred in her education from Class-X to GNM Course.

10. The respondents came with the reply that benefits and Scheme of "Jyoti Yojna" were closed in the budget of 2015-16 and U.T.I. Bond was issued in the name of daughter of the petitioner under the Scheme of "Mukhya Mantri Balika Sambal Yojna".

ANALYSIS, DISCUSSIONS & REASONING:

11. Now the question which remains for consideration before this Court is "whether the petitioner is entitled to get refund of the amount of fees and expenses, incurred and borne by the petitioner towards her studies from Class-X to GNM Course, in terms of the Circular dated 19.08.2011 issued in pursuance of the "Jyoti Yojna?"

12. Relying upon the Circular dated 19.08.2011 and the Scheme "Jyoti Yojna" launched by the Government of Rajasthan, the petitioner underwent the process of sterilization to get the benefit



of the Scheme. Hence, the petitioner has all the legitimate expectation from the Government to fulfill the promise made by it.

13. The principle of legitimate expectations dictates that individuals have a reasonable expectation that public authorities will honour their commitments and promises made through official channels. In the instant case, the petitioner who gave birth to a girl child and underwent sterilization, she did so in reliance of the Government's assurances outlined in the "Jyoti Yojna" Scheme. The said Scheme created a legitimate expectation that the Government would fulfill its obligations, including covering education expenses, medical costs and providing employment preferences in nursing rolls.

14. Furthermore, the principle of estoppel prevents a party from going back on its word when another party has reasonably relied on that promise to their detriment. By undergoing sterilization and making life decisions based on the promises of the Jyoti Yojna, the woman altered her circumstances significantly. To backtrack on these commitments now would not only be unfair but would also undermine the trust and confidence citizens place in Government programs and policies.

15. Therefore, both the principle of "legitimate expectation" and the "principle of estoppel" weigh heavily in favour of upholding the Government's promises under the "Jyoti Yojna" Scheme. To do otherwise would not only be legally questionable but would also be morally unjust, as it would leave individuals who acted in good



faith without the support they were led to expect. As such, it is imperative for the Government to honour its commitments and fulfill its obligations under the program to maintain integrity and accountability in governance.

16. The doctrine of "legitimate expectation" belongs to the domain of public law and it is intended to give relief to the people when they are not able to justify their claims on the basis of law in the strict sense of the terms, though they have suffered a civil consequence because their legitimate expectation had been violated. Expectation may be based upon some express statement or undertaking by or on behalf of the public authority, which has a duty of making decision. When an expectation arises from express promise then such applicant can reasonably expect from the Court or the public authority to protect his/her expectation by invoking the principle similar to natural justice a 'fair play in action'. Legitimate expectation is considered to be a part of the principles of natural justice. This doctrine would be applicable, if by reasons of existing state of affairs, a party is given to understand that the other party shall not take away the benefit without complying with the principles of natural justice.

17. When a person who bases his claim on the doctrine of legitimate expectation, in the first instance, he/she has to satisfy that he/she has relied on the said representation and denial of that expectation has worked to his/her detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary, unreasonable or in gross abuse of power or in



violation of principle of natural justice and not taken in public interest.

18. The doctrine of legitimate expectation emerged as an important concept and the latest recruit in the various concepts by the Court to review an administrative action. The root of this doctrine is the "Rule of Law" which requires that no person would be made to suffer except for the breach of law means, there should be equality before the law. Article 14 of the Constitution of India provides 'equality before the law' and 'equal protection of law' insists on the 'principle of non-arbitrariness' and fair play in administrative action and the same is the doctrine of legitimate expectation. The Hon'ble Apex Court in the case of **Official Liquidator Vs. Dayanand and Ors.** reported in **(2008) 10 SCC 1** has observed that the doctrine of legitimate expectation is a recent addition to the rule of natural justice. It goes beyond the statutory right by serving as another device for rendering justice. No fresh right can be created by invoking the doctrine of legitimate expectation.

19. Though, legitimate expectation is not a legal right, rather it is an expectation of the benefit, relief/remedy that accrues from a promise. In the case of **National Buildings Construction Corporation Vs. S.Raghunathan and Ors.** reported in **(1998) 7 SCC 66** the Hon'ble Apex Court has held in para 18 as under:-

"18. The doctrine of "Legitimate Expectation" has its genesis in the field of administrative law. The Government and its departments, in administering the affairs of the country are expected to honour their



statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statements cannot be disregarded unfairly or applied selectively. Unfairness in the form of unreasonableness is making to violation of natural justice. It was in this context that the doctrine of "Legitimate Expectation" was evolved which has today become a source of substantive as well as procedural rights. But claims based on "Legitimate Expectation" have been held to require reliance on representations and resulting detriment to the claimant in the same way as claims based on promissory estoppel."



20. The term "legitimate expectation" was first time used in England by Lord Denning in the case of **Schmidt Vs. Secretary of State for Home Affairs** reported in **1969 (2) WLR 337**. In this case the government cut-short the period already allowed to an alien to enter and stay in England. The Court held that person had legitimate expectation to stay in England, which cannot be violated without following a procedure which is fair and reasonable. The Court used the term "legitimate expectation" as an alternative expression to the word "right".

21. On many occasions, the Hon'ble Apex Court has observed that the doctrine of "legitimate expectation" is developed in order to check the arbitrary exercise of power by the administrative authorities. In private law, a person can approach the Court when his rights based on a statute are violated but in public law, the administrative authority could be made accountable on the ground of an expectation which is legitimate but not fulfilled by the said authority.



22. Here, in the instant case, earlier the respondents issued a Circular on 19.08.2011 for providing various benefits of free education and preference in selection of Asha Sahayogini, ANM and GNM Courses to those females, who are having one or two girl child and also underwent the operation and process of sterilization. By issuing the scheme of "Jyoti Yojna", the respondents made promise to various persons like the petitioner for providing the benefits of this Scheme and relying upon such promises of the respondent-State, the petitioner underwent the process of operation of sterilization to get the benefits of the said Scheme. Accordingly, a "Jyoti Card" was also issued to the petitioner but the respondent-State closed the Scheme in the year 2016 and accordingly, failed to fulfill their promise and denied to provide benefits of the Scheme to the petitioner and various similarly placed persons by stopping the benefits of this Scheme and as such, it would be safe to observe that the decision taken by the respondent-State of not providing the benefit of the Scheme is against the public interest.

CONCLUSION & DIRECTIONS:

23. The action of the respondents in not providing the benefits of the Scheme of "Jyoti Yojna" to the petitioner and similarly placed persons, is quite arbitrary, unreasonable and the same amounts to gross abuse of the power and violation of the principle of natural justice and the same is not sustainable in the eye of law. Such action of the respondents amounts to breach of promise and violation of the doctrine of "legitimate expectation" and principle of "promissory estoppel".



24. As per the discussions made hereinabove and as a consequence thereof, the instant writ petition stands allowed with direction to the respondents to provide the benefits of "Jyoti Yojna" to the petitioner and refund/reimburse her educational fees and other expenses incurred in her education from Secondary (Class X) to GNM Course with interest @ 9% p.a from the date of filing of the writ petition.

25. Stay application and all the applications, pending if any, stands disposed of. No costs.

GENERAL MANDAMUS & ADDL. DIRECTIONS:

26. Before parting with the order, a general mandamus is issued to the respondents and the Chief Secretary of the State of Rajasthan to constitute a Committee headed by the Secretary, Department Medical & Health to provide the benefits of "Jyoti Yojna" to each and every individual, who is having one or two girl child and had underwent the operation of sterilization, in pursuance of the Scheme "Jyoti Yojna" and promise made by the Government of Rajasthan in pursuance of the Circular dated 19.08.2011, after scrutiny of the pending claims and applications of the desired persons.

27. It goes without saying that needful exercise would be done by the respondents within a period of three months from the date of receipt of this order.



28. Office is directed to send a copy of this order to the respondents as well as to the Chief Secretary for compliance and necessary action in the matter.

(ANOOP KUMAR DHAND),J



Solanki DS, PS