

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NO.29492 of 2021

Between:

Mrs. Boppani Muthi Lingamma

...Petitioner

AND

1. The State of Telangana, Rep. by its Principal Secretary, Panchayat Raj and Rural Development Department, Govt. of Telangana, Secretariat, Hyderabad and four others.

...Respondents

COMMON JUDGMENT PRONOUNCED ON: 24.06.2024

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SARATH

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH

+ WRIT PETITION NO.29492 of 2021

%Dated 24.06.2024

Mrs. Boppani Muthi Lingamma

...Petitioner

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1. \$ The State of Telangana, Rep. by its Principal Secretary, Panchayat Raj and Rural Development Department, Govt. of Telangana, Secretariat, Hyderabad and four others.

...Respondents

! Counsel for Petitioner : Sri Venkat Reddy Donthi Reddy,
Learned Senior Counsel for the
petitioner

^ Counsel for Respondents : Learned Asst. Govt. Pleader for
Panchayat Raj and Rural
Development

< GIST :

> HEAD NOTE :

? Cases referred :

1.2022 SCC OnLine Bom 1068

THE HONOURABLE SRI JUSTICE K.SARATH

WRIT PETITION No.29492 of 2021

ORDER:

Heard Sri Venkat Reddy Donthi Reddy, learned Senior Counsel appearing for the petitioner and Learned Assistant Government Pleader for Panchayat Raj and Rural Development for the respondents and perused the entire material on record.

2. Learned Senior Counsel for the petitioner submits that after death of the husband of the petitioner, the petitioner has applied for Aasara Pension under Social Security Pension Scheme initiated by the erstwhile State Government in the year 2006-07. After considering the eligibility of the petitioner, the concerned authorities have sanctioned an amount of Rs.1000/- (Rupees One Thousand only) per month towards pension to the petitioner *vide* I.D.No.NGKERO3187 and the same was paid uninterruptedly till the year, 2015. While it is

being so, the respondent No.4 in the Month of August, 2015 has withheld the pension of the petitioner. Thereafter, the petitioner made an application under Right to Information Act, for which on 20.06.2020, the respondent No.4 had furnished the information stating that as the daughter-in-law of the petitioner is a State Government Employee, the petitioner becomes ineligible for the said Aasara Pension and withheld the said pension from the year, 2015.

3. Learned Senior Counsel for the petitioner further submits that the sons of the petitioner are married and the elder son of the petitioner is handicapped and he is unemployed and his wife is a Government Teacher in Zilla Parishad High School, Gomaram Village, Shivampet Mandal, Medak District and they live away from the petitioner and the petitioner is the age old women with infirmities. On 25.07.2020, the petitioner has submitted a representation to the respondent No.4 requesting to restore the Aasara

Pension. But, no action was taken by the respondents. Aggrieved by the same, the petitioner has filed W.P.No.17813 of 2020 before this Court, wherein this Court *vide* order dated 13.07.2021 has disposed of the said writ petition by directing the respondents to consider the representation dated 25.07.2020 made by the petitioner in accordance with law within a period of two (02) months from the date of receipt of a copy of the said order. But the respondents have rejected the representation of the petitioner for grant of Aasara Pension by relying upon the condition No.4.III.B.(ii) of G.O.Ms.No.17, Panchayat Raj and Rural Development, dated 05.11.2014 in the impugned order.

4. Learned Senior Counsel for the petitioner further submits that as per the said condition No.4.III.B.(ii) of G.O.Ms.No.17, Panchayat Raj and Rural Development, dated 05.11.2014, a person shall not be eligible for Social Security Pension, if the person's children is/are employed with Government/Public

Sector/Private Sector employment/Outsourced/Contract. But, in the instant case, the respondents have withhold the pension of the petitioner on the ground that daughter-in-law of the petitioner is a Government Teacher and issued impugned proceedings No.D/21/Aasara/2019-20 dated 16.08.2021. The petitioner is not having any independent income and she is living away from her children and she is not dependent on her daughter-in-law and requested to allow the writ petition.

5. In support of his arguments, learned Senior Counsel for the petitioner relied upon the Judgment passed by the High Court of Bombay in ***Sheetal Devang Shah Vs. Presiding Officer of the Maintenance and Welfare of Parents and Senior Citizens and Ors.***¹

6. Learned Assistant Government Pleader for Panchayat Raj and Rural Development appearing for the respondents, basing on the counter-affidavit, submits

¹ 2022 SCC OnLine Bom 1068

that before rejecting the representation made by the petitioner, the respondent No.2 on 13.08.2021, has conducted a personal hearing of the petitioner and her elder son, wherein the petitioner and her son had admitted that the daughter-in-law of the petitioner is a Government Teacher at Medak. But, as per the terms and guidelines issued in G.O.Ms.No.17, Panchayat Raj and Rural Development, dated 05.11.2014, as the petitioner is having an earning member in her family, she is not eligible for Aasara Pension. As per the instructions of the Government, the respondent No.4 and the Panchayat Secretary conducted re-verification of the eligible pensioners in the village, wherein the name of the petitioner was removed as she is having a earning member in the family.

7. Learned Assistant Government Pleader for the respondents further submits that the Aasara Pension is meant for the Single Woman and the persons, who are having earning members in the family are not eligible for

the same. In pursuance of the order dated 13.07.2021 passed by this Court in W.P.No.17813 of 2020, the respondent No.2 has conducted a personal hearing with the petitioner and her elder son, wherein they admitted that the daughter-in-law of the petitioner is the working Government Teacher and requested to dismiss the writ petition.

8. After hearing both sides and on perusing the material on record, this Court is of the considered view that the respondent authorities have granted Aasara Pension under Social Security Pension Scheme to the petitioner in the year, 2006-07 and the same was discontinued in the year, 2015 on the ground that daughter-in-law of the petitioner is a State Government employee. In the said scheme, the Government in G.O.Ms.No.17, Panchayat Raj and Rural Development, dated 05.11.2014 has issued comprehensive guidelines with regard to eligibility for Aasara Pension (Socio-

economic criteria) and the relevant portion of the said G.O., is as follows:

“4. III. B. Socio - economic criteria: *Aasara pensions are meant only for*

*disadvantaged families who, in old age or upon being widowed have no earning member in the family. Earning members in the families are expected by law to look after their parents. Similarly, persons with disabilities are severely stymied by their levels of handicap that renders them to be ineffective and excluded by society and family: therefore, they need financial support. Accordingly, there is a need for exclusion and inclusion criterion to be taken in to consideration for the grant of social security pensions under the Aasara Scheme. The persons belonging to the households fulfilling one or more of the following conditions listed below **shall not be eligible for Social Security Pensions:***

i. xxx

*ii. Having children who are Government/
Public sector/Private sector employment/
Out-sourced /contract;*

iii. xxx”

9. In the instant case, none of the petitioner’s children are working in the Government/Public Sector /Private Sector/Outsourcing/Contract. The impugned proceedings *vide* No.D/21/Aasara/2019-20, dated 16/08/2021 passed on the ground that the daughter-in-

law of the petitioner is working as Government Teacher. The Spouse, Children and Parents of the concerned Government servant only are the dependents, as per service conditions of the State Government employees.

10. As per definition in Section 2(a) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, daughter-in-law not included as children. The section 2(a) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is as follows:

“2(a). "children" includes son, daughter, grandson and grand-daughter but does not include a minor.”

11. Learned Senior Counsel appearing for the petitioner in support of his contentions relied upon the Judgment passed by the High Court of Bombay in ***Sheetal Devang Shah vs. Presiding Officer of the Maintenance and Welfare of Parents and Senior Citizens and Ors. (supra)*** and the relevant portion of the said Judgment at Para No.62 is as follows:

“62. We have reservations about such direction to Sheetal Shah to pay maintenance amount to Nalini Shah. As already observed, in Section 2(a), ‘children’ include son, daughter, grandson and grand-daughter and there is no reference to the daughter-in-law. Be that as it may, upon perusal of the original record, we do not find a single document showing the earnings of Sheetal Shah. In that view of the matter, the Impugned Order, to the extent that it directs Sheetal Shah to pay Rs. 25,000/- along with her husband Devang Shah to Nalini Shah and Mahendra Shah, cannot be legally sustained. However, so far direction given to Devang Shah to pay the said maintenance amount to Nalini Shah, the same is legally sustainable.”

The above said Judgment squarely apply to the facts of the instant case.

12. The petitioner is mother-in-law of the State Government servant and she cannot be considered as a dependent of the daughter-in-law and she cannot get any benefit as a dependent from employment of her daughter-in-law. In view of the same, the impugned order passed by the respondents is liable to be set aside.

13. In view of the above finding, the Writ Petition is allowed by setting aside the impugned proceedings No.D/21/Aasara/2019-20 dated 16.08.2021 and the

respondent-authorities are directed to continue the Aasara Pension Scheme/Social Security Pension Scheme to the petitioner and pay the arrears from the date of discontinuation of Aasara Pension, within two (02) months from the date of receipt of copy of this Order. However, there shall be no order as to costs.

14. Miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE K.SARATH

Date:24.06.2024

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