

Mayawati Vs. State and ors.

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Court : Jammu and Kashmir

Decided On : Dec-27-2007

Reported in : 2008(1)JKJ613

Judge : J.P. Singh, J.

Appellant : Mayawati

Respondent : State and ors.

Judgement :

J.P. Singh, J.

1. Petitioner, an aged lady of more than 70 years, had been putting up with her family in Kashmir Valley when militants struck in a, Village nearby, Tailwani by name, killing and injuring the members of the minority community. A large number of persons belonging to the minority community, therefore, migrated out of the Valley. Two major sons of the petitioner along with their off-springs too joined the minority community in search of a safer place, but leaving the petitioner unattended in the Valley. Compelled by the circumstances, the petitioner stayed back in the Valley with the majority community, but only for a short time where after she shifted from Akura to Mattan and remained there all alone till January, 2002, when again remaining members of minority community in Kashmir Valley became insecure because of terrorists strike in Village Hugam. This time she too had to run for safety to Jammu where she was registered as a provisional single

soul migrant. She continued getting migrant relief which was payable to the migrants of Kashmir Valley, but only for short spells in terms of Order Nos. 35 of 2002 dated 08.02.2002, 71 of 2002 dated 18.04.2002, 170 of 2003 dated 16.01.2003 and 64 of 2003 dated 27.04.2003. Thereafter the petitioner has remained high and dry and the respondents kept on putting off consideration of her case for release of migrant relief on the plea that C.I.D verification was awaited.

2. Finding no hope of relief at the hands of the respondents, she has approached this Court for issuance of requisite directions to the respondents for proving her migrant relief. Respondents are opposing the grant of migrant relief to the old lady only on the ground that it was yet to be verified by the C.I.D as to whether or not the petitioner was living at Jammu as a migrant. They have placed a verification report too, on records indicating that petitioner had not been found at her given address of Kamal Nagar, Bantalab, Jammu, when spot verification had been conducted on 10.05.2007.

3. I have considered the submissions made at the Bar and had heard the old lady too who had been produced by her learned Counsel in the Court to demonstrate as to how had the respondents dealt with her case in avoiding migrant relief to her to which she was entitled because of her migration from Kashmir Valley to Jammu because of the unfavourable conditions prevailing at the time of her migration. Mr. A.H. Qazi, learned AAG, appearing for the respondents, submitted that the Relief Commissioner (M), Jammu, cannot release migrant relief in favour of the petitioner unless the Home Department had verified that the petitioner was a migrant, settled in Jammu. He laid great stress on spot verification report of 10.05.2007.

4. I do not find any merit in learned State Counsel's submissions. The verification report relied upon by learned Counsel, does not inspire confidence because it indicates that the verification team had been trying to trace the petitioner at a place where she was not putting up in Jammu. This verification report refers 'Kamal Nagar, Bantalab, Jammu', as petitioner's address whereas the petitioner is stated to have been putting up at '51-A, Extension Janipur Housing Colony, Jammu'. Inaction of the Home Department in coming forward with any report regarding petitioner's migration and stay at Jammu and in the absence of any contrary report

that the petitioner was not a migrant and had not been staying at Jammu, there was no occasion for the respondents to have stopped payment of migrant relief to her. Once having registered the petitioner as a provisional migrant and released migrant relief in her favour, the respondents were not right in denying migrant relief to the petitioner unless, however, there was any convincing evidence or material with them that the petitioner had not been putting up at Jammu as a migrant.

5. I am, therefore, of the view that the petitioner's consideration of her entitlement to migrant relief cannot be kept in limbo for an unlimited period and the respondents are required to be commanded to decide petitioner's case as to her entitlement to migrant's relief within a fixed period.

6. This writ petition is, accordingly, disposed of with a direction to the respondents to verify the migrant status of the petitioner by any mode they may like so to do within a period of three months and in case nothing adverse is found against her as regards her status as migrant, they shall consider treating her as a regular migrant and would release the migrant relief in her favour as is permissible to migrants of Kashmir Valley in terms of the Government %s issued in this behalf from time to time. Relief Commissioner (M), Jammu, shall report compliance of this direction to Registrar Judicial of this Court by 1st of April, 2008.