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WP-32191-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 8th OF NOVEMBER, 2024WRIT PETITION No. 32191 of 2024*SMT. SUNITA BAI SAHU**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Brijendra Swaroop Sahu - Advocate for the petitioner.

Shri Abhishek Singh - Government Advocate for the respondents/State.

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ORDER

This petition under Article 226 of Constitution of India has been filed seeking following reliefs:

"1. It is, therefore, prayed that this Hon'ble Court may kindly be pleased to issue a writ of certiorari to quash or set aside impugned order dated 22.02.2024 vide Annexure P/1 passed by the respondent No.4.

2. It is, therefore, prayed that this Hon'ble Court may kindly be pleased to issue a writ of mandamus whereby the respondents may kindly be directed to count the date of birth of husband of the petitioner as per ADHAR card and grant the benefits of Sambal Card Scheme to the petitioner in terms of order dated 09.07.2024 passed by this Hon'ble Court in W.P. No.21501 of 2023 vide Annexure P/2, in the interest of justice.

ALTERNATIVELY

3. This Hon'ble Court may kindly be pleased to direct the respondent No.3 i.e. SDO (Revenue) Gadarwara, District Narsinghpur to decide the Appeal vide



Annexure P/10 of the petitioner, in the interest of justice.

4. It is, therefore, prayed that this Hon'ble Court may kindly be pleased to call for the relevant record pertaining to case of the petitioner for barre perusal of this Hon'ble Court.

5. Any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case including cost of the litigation may kindly be awarded in favour of the petitioner."

2. It is submitted by counsel for petitioner that husband of petitioner has died on account of electrocution. The petitioner filed an application for grant of compensation under *Mukhyamantri Jan Kalyan (Sambal) Yojna*, 2018. By order dated 22.02.2024, the said application has been rejected on the ground that the age of deceased husband of petitioner was 64 years. It is submitted by counsel for petitioner that a Coordinate Bench of this Court in the case of **Narmadi Prasad Vs. State of Madhya Pradesh and Others** decided on 09.07.2024 in W.P. No.21501/2023 had held that as per the scheme, the age of deceased is to be ascertained on the basis of date of birth mentioned in Aadhar Card and therefore, order rejecting the claim was set aside and the matter was remanded back to reconsider the case on the basis of age mentioned in Aadhar Card. It is submitted that since in the present case also, the claim has been rejected on the ground that age of the deceased was more than 64 years and the date of birth mentioned in the Aadhar Card cannot be considered, therefore, the order under challenge is vulnerable in the light of order passed by Coordinate Bench of this Court in the case of **Narmadi Prasad (supra)**.



3. *Per contra*, it is submitted by counsel for the State that Aadhar Card is not the document of date of birth.
4. Heard the learned counsel for the parties.
5. The Supreme Court in the case of **Saroj and Others Vs. IFFCO-TOKIO General Insurance Company and Others** by order dated 24.10.2024 passed in SLP (Civil) No.23939-23940/2023 has held that Aadhar Card is not the document of age. While passing such order, several different orders passed by different High Courts as well as circulars issued by the Department clarifying that the Aadhar Card is not the proof of age of Aadhar Card holder have been taken into consideration.
6. Accordingly, counsel for petitioner was directed to address this Court that if the State Government has formulated a scheme considering the Aadhar Card as a document of age, then whether the said scheme can be given preference over the judgment passed by the Supreme Court as well as circulars issued by the Department, who is responsible for issuance of Aadhar Card or not?
7. It was fairly conceded that the scheme, which is an executive instruction cannot prevail over the judgments passed by the Supreme Court as well as the High Court.
8. The UIDAI by its circular No.08/2023 has clarified that Aadhar Card can be used to establish identity. It is not *per se* proof of date of birth.
9. Similarly, different High Courts including the High Court of Madhya Pradesh in different cases have held that Aadhar Card is not a document of age.



10. Thus, it is clear that the provision of *Mukhyamantri Jan Kalyan (Sambal) Yojna*, 2018, which provides that the age of deceased labourer would be considered on the basis of date of birth mentioned in Aadhar Card, is contrary to very purpose of Aadhar Card and therefore, it cannot be approved.

11. Be that whatever it may be.

12. But one thing is clear that since Aadhar Card is not the proof of age of holder of Aadhar Card, therefore, Janpad Panchayat Babai Chichali, District Narsinghpur did not commit any mistake by holding that on the basis of all other relevant documents, the age of deceased husband of petitioner was more than 64 years and has rightly ignored the date of birth mentioned in the Aadhar Card of the deceased.

13. Faced with such a situation, counsel for petitioner submitted that since the petitioner has also filed an appeal before SDO, Gadarwara, District Narsinghpur against order dated 22.02.2024 and the same is pending therefore, Appellate Authority may be directed to decide the same.

14. Once, this Court has already held that Aadhar Card is not the document of age and it is a document of identity (Biometric, IRIS), then no useful purpose would served by directing the Appellate Authority to decide the appeal thereby giving an opportunity to take a different view specifically when the judgment passed by this Court is binding on all the tribunals functioning within the State of Madhya Pradesh.

15. So far as the judgment passed by Coordinate Bench of this Court in the case of **Narmadi Prasad (supra)** is concerned, in view of the fact that



Coordinate Bench has not considered the fact as to whether the Aadhar Card is the document of age or it is only a document of identity coupled with the fact that subsequently it has also been held by Supreme Court that Aadhar Card is not a document of age, therefore, the order passed by Coordinate Bench of this Court in the case of **Narmadi Prasad (supra)** is held to be *per incuriam*.

16. Petition fails and is hereby **dismissed**.

17. Let a copy of this order be sent to Chief Secretary, State of Madhya Pradesh for issuing notices to all the concerned authorities with regard to the legal sanctity of Aadhar Card thereby clarifying that Aadhar Card is not the document of age but it is merely a document of identity.

18. Let this order be also circulated to all Collectors within the State of Madhya Pradesh so that they may circulate to all the authorities functioning under him.

(G. S. AHLUWALIA)
JUDGE

SR*