BLOGS

Queer Families Entitled to Benefits: SC's New Ruling for CLAT 2023

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INTRODUCTION

"The predominant understanding of the concept of a "family" both in the law and in society is that it consists of a single, unchanging unit with a mother and a father (who remain constant over time) and their children. This assumption ignores both, the many circumstances which may lead to a change in one's familial structure, and the fact that many families do not conform to this expectation to begin with. Familial relationships may take the form of domestic, unmarried partnerships or queer relationships."

-Justice DY Chandrachud

Case Name: Deepika Singh v. Central Administrative Tribunal and Others

Citation: Civil Appeal No 5308 of 2022, decided on August 16, 2022

Bench: DY Chandrachud, AS Bopanna, JJ

ISSUE AND QUESTIONS

Claim of the appellant:

The appellant in this case was seeking maternity leave on the birth of her first biological child, on the claim that the fact that her spouse had two children from his former marriage did not disentitle her to these maternity benefits. Childcare leaves taken for those two children are distinct from her entitlement to maternity leave benefit.

Question

- Interpretation of Rule 43 of the Central Civil Services (Leave) Rules, 1972.
- Relevant Constitutional Provision: Article 309, the Constitution of India[i]

APPROACH OF THE COURT

The Court employed purposive construction, as beneficial legislation should be given a liberal approach.[ii] The Court used precedents to establish that courts must bridge the gap between law and society using purposive interpretation.[iii]

DECISION

In the Court's own words:

"The fact that the appellant's spouse had two biological children from his first marriage would not impinge upon the entitlement of the appellant to avail maternity leave for her sole biological child."[iv]

CRUCIAL OBSERVATIONS

- Challenged the predominant understanding of "family" both in the law and in society—of a father, a mother, and child(ren). The Court rebutted this assumption which "ignores the many circumstances which may lead to a change in one's familial structure as well as the fact that many families do not conform to this expectation to begin with".
- The Court explored the multiple expressions of familial relationships.
- Here, the Court recognized domestic, unmarried partnerships or queer relationships. In adding queer relationships to this list of recognition, the Court afforded the social benefits to queer couples and their families as well. This is a huge landmark in the interpretation of rights of the LGBTQIA+ community.

"*Such atypical manifestations of the family unit are equally deserving not only of protection under law but also of the benefits available under social welfare legislation*. The black letter of the law must not be relied upon to disadvantage families which are different from traditional ones. The same undoubtedly holds true for women who take on the role of motherhood in ways that may not find a place in the popular imagination."

Suggested Readings:

1. NALSA v. Union of India, available at https://translaw.clpr.org.in/wp-content/uploads/2018/09/Nalsa.pdf < last seen 02.09.2022>

2. Navtej Singh Johar v. Union of India available at https://www.aironline.in/legal-judgements/AIR%202018%20SUPREME%20COURT%204321 < last seen 02.09.2022>
3. S. Puttaswamy v. Union of India available at https://www.scobserver.in/cases/puttaswamy-v-union-of-india-fundamental-right-to-privacy-case-background/ at 'Documents' <last seen 02.09.2022>.

[The Fundamental Right to privacy's relation to autonomy.]

[i] This Article talks about the recruitment and conditions of service of persons serving the Union or a State. The 1972 Rules have been framed under the proviso of this Article: *"Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed..."*

[ii] KH Nazar v. Mathew K Jacob, (2020) 14 SCC 126

[iii] Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188

[iv] *Judgment*, paragraph 24

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