
A STEREOTYPE STRUCK DOWN: KULSUM NISHA AND THE EQUALITY CODE

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ABSTRACT

The question in Kulsum Nisha v. State of Uttar Pradesh is: Can the marital status of an otherwise eligible daughter be a ground for exclusion from a compassionate allotment linked with welfare? The appellants, married daughter of a deceased fair price shop dealer, the only earning member of the family was refused allotment of the shop on the ground that married daughter is outside the definition of "dependant" under Clause 2(p) of the Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution) Control Order, 2016. The Supreme Court overruled the reliance placed upon Kusumlata v. State of U.P., by the Allahabad High Court and relied upon the reasoning of the Bombay High Court in Ranjana Murlidhar Anerao, that the exclusion of married daughters from the definition of 'family' is based on gender stereotypes and does not pass the test of reasonable classification under Articles 14 and 15(1) as marriage status has no rational nexus to dependency, financial need or residence. Instead of invalidating the clause, the Court adopted the purposive construction of reading "daughter" to include a married daughter as well. This commentary argues that the result is constitutionally sound, but the method of interpretation is questionable. Clause 2(p) expressly lists unmarried, legally separated, and widowed daughters; the omission of married daughters seems to be a deliberate choice rather than an oversight. This makes the Court's approach more akin to reading down than to a genuine purposive construction. In effect, the implementation authorities will have a provision without the married daughters, but the effect of the judgement may be lessened without legislative amendment, with the text of the clause remaining formally unchanged.

Key Words: - Compassionate Allotment, Married Daughters, Gender Equality, Purposive Interpretation, Constitution of India.

I. Introduction

In *Kulsum Nisha v. State of U.P.*, the Supreme Court of India was called upon to determine whether the marital status of an otherwise eligible daughter could constitute a valid ground for excluding her from the benefit of a welfare measure. The appeal arose from an Allahabad High Court decision rejecting the claim of the appellant, a married daughter of the deceased dealer, for allotment of a fair price shop on compassionate grounds. The judgment by the Division Bench sits at the intersection of Articles 14, 15(1) and 21, and welfare legislation in administrative law. The significance of the judgment lies not merely in the relief granted to the appellant, but in its broader constitutional message, that legislative and administrative instruments which embed presumptions about women's family ties upon marriage cannot survive scrutiny under the equality code, comprising Articles 14, 15, and 21 of the Constitution. The decision reinforces a constitutional principle that entitlement to welfare cannot depend upon outdated assumptions about the place of women within the family.

II. Factual Background

The case arose when the mother of the appellant, to whom a fair price shop had been allotted, passed away. The appellant, even after her marriage, was the sole earning member, responsible for her sisters and mother.

The sub-divisional magistrate, in an order, ordered the reassignment of the fair price shop on the demise of the mother. The appellant filed an application before the SDM seeking allotment of the shop in her capacity as a dependent. The application was dismissed on the ground that the appellant is a married daughter and is not covered under the definition of a dependant.

The matter reached the Supreme Court after the Division Bench in Allahabad High Court dismissed the writ petition relying on the precedent laid down in *Kusumlata v. State of UP*. However, a Single Judge Bench granted the Article 134-A certificate, holding that the matter involves a substantial question of law of general importance as it concerns the rights of married daughters.

Issue Before the Court

The substantial question of law of general importance that was laid for consideration before the division bench comprising Justice PS Narasimha and Justice Alok Aradhewas whether the marital status of an otherwise eligible daughter could be used as a valid ground for denying her welfare measures.

Decision

The Supreme Court relied on the Bombay High Court's view in *Ranjana Murlidhar Anerao* and overruled the judgment passed by the Allahabad High Court. The Court held that relying on the ground of marital status to exclude a married daughter from her parental family is constitutionally unacceptable and based on gender stereotypes.

The Court found the exclusion of married daughters from the definition of "family" violative of Article 14, 15(1) of the Constitution of India. The guarantees provided by Articles 14, 15(1) and 21 have to be interpreted to ensure social and economic justice. These articles, when read with the Directive Principle of State Policy, help secure the right of men and women to an adequate means of livelihood. An exclusion that draws a line between married sons and married daughters, without any rational basis connecting marital status to the object of the scheme, fails the test of reasonable classification under Article 14. Keeping these principles as the foundation, the Court held that the exclusion of a married daughter from the definition of "family" could not be sustained. It reasoned that the object of allotment under the dependent quota is to provide immediate relief to the family of a deceased dealer facing financial hardship, and that the relevant considerations for eligibility are dependency, financial need, residence, and the capacity to discharge the obligations of the dealership. Against these criteria, marital status was found to bear no rational nexus whatsoever.

It was observed that the law does not exclude married sons, only married daughters. This gender based discrimination was found to be incompatible with the constitutional guarantee of equality. The argument of the State that a married daughter may not satisfy the requirement of local residence was also considered by the bench. It was reasoned that residence is an independent eligibility criterion and has to be determined on a case-by-case basis.

The judgment provided that a daughter, after marriage, does not cease to be a member of her parental family, and that marriage cannot be the basis for the presumption of absence of dependency.

III. Purposive Construction - Evaluating the Court's Interpretive Choice

Faced with the provision that explicitly stated "unmarried, legally separated and widowed daughters" as eligible dependents under Clause 2(p) of the Order, the Court did not strike it down. Rather, the doctrine of purposive construction was applied. The court looked to the underlying objective of the *Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution) Control Order, 2016*. The provision provided for "unmarried, legally separated and widowed daughters" as eligible dependents. It was before the court whether to strike it down or to read the provision in a manner to include married daughters. The Court reasoned that reading the provision literally would produce a result incompatible with the constitutional guarantees under Articles 14 and 15(1). Applying the doctrine of purposive construction and keeping in mind the object of the provision, which is to provide immediate financial relief to the dependent family of the deceased dealer, the court held that the expression "daughter" in Clause 2(p) has to be interpreted to include a married daughter. It was also affirmed that the interpretation would be subject to her establishing actual dependency on the deceased dealer and satisfying all other prescribed eligibility conditions, including the requirement of local residence.

Purposive Construction is an accepted and firmly settled method of interpreting statutes. It enables the court to deviate from its literal interpretation where doing so would frustrate the manifest purpose of the statute. The problem with the case at hand lies in the fact that Clause 2(p) does not employ the broad term "daughter," which has no definition in the clause. On the contrary, Clause 2(p) provides for three specific sub-groups of daughters, namely, "unmarried daughters, legally separated daughters, and widowed daughters." In all of these, the common thread is that they are daughters who have not married or their marriages have either ended or fallen apart. The exclusion of "married daughters" from the list above is not an oversight; in fact, it seems clear from the face of the clause itself that there was a purposeful omission of "married daughters" from the list. In that sense, it could perhaps be said that the Court is "reading down" the exclusion rather than engaging in purposive construction. To read married daughters into

such a provision is not so much to interpret the text as to rewrite it, a function that, under the separation of powers, belongs to the legislature.

This is not to say that the result reached is wrong. The more defensible route, however, may have been to formally strike down the listed restrictions while reading "daughter" in Clause 2(p) as an inclusive, unqualified term. This would have been textually honest and constitutionally cleaner. The practical consequence of the Court's chosen approach is also worth noting. Because the text of Clause 2(p) remains formally unchanged, implementing authorities at the ground level, such as the sub-divisional magistrates and the district supply officers, remain with a provision that still lists only unmarried, legally separated, and widowed daughters. The constitutional interpretation put over the clause by the Supreme Court requires deliberate action on the part of these officers. Given the administrative realities of welfare delivery in Uttar Pradesh, there is a real risk that the judgment's effect will be diluted in practice, with married daughters continuing to face rejection until fresh litigation forces compliance.

IV. Conclusion

Kulsum Nisha v. State of Uttar Pradesh. is a judgment that gets the outcome right, even if the path taken to reach it invites scrutiny. The Court's stance on the irrelevance of marital status as an indicator of dependency is constitutionally sound and long overdue. Welfare schemes that presume dependency based on gendered expectations about familial connections of daughters following marriage are inconsistent with equality. The State might argue that limiting the dependent category reduces verification burdens and prevents competing claims. However, administrative convenience cannot justify a classification that is otherwise unconstitutional.

The choice of purposive construction over formal invalidation leaves Clause 2(p) textually intact, placing the burden of correct implementation on ground-level authorities who may be ill-equipped or disinclined to apply a constitutional gloss over a plainly worded exclusion. Until the State amends the 2016 Order and the relevant Government Orders to reflect the Supreme Court's holding, the judgment risks remaining aspirational in practice. The Court has opened the door; the legislature must now widen it.

References

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