

Court No. - 4

Case :- WRIT - A No. - 12191 of 2025

Petitioner :- Sushila Patel

Respondent :- State Of Uttar Pradesh And 3 Others

Counsel for Petitioner :- Anoop Baranwal, Raghunath Verma

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

Heard learned counsel for the parties and perused the records.

Petitioner, who had applied earlier for maternity leave which came to be rejected by the order dated 11th September, 2024 and 23rd on the ground that petitioner could not have availed second maternity leave within a period of two years of the first maternity leave had challenged the same and the said order came to be quashed by this Court vide order dated 6th November, 2024 in Writ - A No.- 17287 of 2024 in following terms:

"Heard Sri Anoop Baranwal, learned counsel for the petitioner and learned Standing Counsel.

The petitioner before this Court is aggrieved by order of respondent nos. 2 to 4 rejecting her application for maternity leave on the ground that between the first and second pregnancy 180 days period gap was not there. It is argued that controversy of 180 days gap was no more res integra as provision has already been held to be not mandatory in government service matter. Learned counsel for the petitioner has placed before judgment of this Court passed in the matter of Writ A No. 4996 of 2022 Smt. Guddi v. State of U.P. and 2 Others, decided on 8.4.2022.

Learned standing Counsel does not dispute legal proposition as laid down in the judgment of Smt. Guddi case (supra) discussed by the concurrent bench of this Court.

In view of above, both orders impugned passed by respondent nos. 2 and 4 dated 11.9.2024 annexure 8 and 23rd September, 2024 annexure 9 to the petition are held to be unsustainable and are hereby quashed.

The petition stands allowed accordingly in terms of order dated 8.4.2022 passed in Smt. Guddi's case (supra). Respondents to decide the matter afresh to consider the grant of maternity leave to the petitioner afresh by passing order within a period of six weeks from the date of presentation of certified copy of this order."

However, when a copy of the order was supplied along with application to the Director, Horticulture and Food Processing

Department, U.P. Lucknow vide application dated 7th December, 2024, the same has again been rejected on same ground that second maternity leave could have been given only upon expiry of two years period from the date of first maternity leave availed.

It is unfortunate that despite directions issued by this Court in a number of petitions that such requirement of minimum two years period to pass in between two pregnancies was not mandatory to avail benefit of maternity leave and one such case was referred by this Court in the matter of Smt. Guddi v. State of U.P. and 2 others in Writ - A No.- 4996 of 2022 decided on 8th April, 2022 and yet Director, Horticulture and Food Processing Department, U.P., Lucknow U.P. failed to appreciate the same and rejected the maternity leave application for no justified reasons. Such an act and conduct amounts to clear contempt of the order this Court in both the directions issued by this Court vide order dated 6th November, 2024 in Writ - A No.- 17287 of 2024 vide order dated 6th November, 2024 and in Writ - A No.- 4996 of 2022 (Smt. Guddi v. State of U.P. and 2 others) decided on 8th April, 2022.

Let Director, Horticulture and Food Processing, U.P. Lucknow appear in person before this Court and show cause as to why he may not be proceeded with by framing charges for initiating proceedings under Contempt of Courts Act, 1971, on the next date fixed.

List on 1st September, 2025.

Sri S.K. Pal, learned Additional Chief Standing Counsel shall communicate this order to the concerned authority within 24 hours.

Order Date :- 23.8.2025

Atmesh