

News

Orissa High Court: Inadequate Population Growth Measures Require Immediate Action on the War Front



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The Court expressed worries about the country's impending demographic explosion.

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According to Section 25(1)(v) of the Odisha Grama Panchayats Act, 1964 (also known as "the 1964 Act"), the Orissa High Court has affirmed the disqualification of a Gram Panchayat

Member for having more than two children.

Interestingly, the Division Bench of Justices Dixit Krishna Shripad and Chittaranjan Dash rejected the petition to a Single Bench ruling that upheld such disqualification.

The statement "India is not a nation, but mere population" is attributed to Sir Winston Churchill (1874–1965). This occurred long before the Partition, when there were roughly 30 crore people living in undivided India. One's imagination will run wild when they consider the scathing remark he might have said if he were still living today.

Due to having more than two children, the appellant, who had previously been a member of the Gram Panchayat, was expelled from the Panchayat. The 1964 Act's Section 25(1)(v) statutory prescription served as the foundation for its termination.

He filed a writ suit contesting the removal because he felt wronged by it. To his complete dismay, however, the Court dismissed the petition after finding that such termination was consistent with the law. As a result, he filed this writ appeal to further contest the single bench's decision.

The appellant's attorney contested the single bench order, arguing that the proviso to Section 25(1)(v) safeguards the appellant's membership and that the single bench erred by unlawfully upholding the termination.

Notably, Section 25(1)(v) states that having more than two children disqualifies a person from being elected or nominated as a Sarpanch or any other member of the Grama Panchayat. However, it is subject to the following protective proviso:

"Provided that the disqualification under Clause (v) shall not apply to any person who has more than two children on the date of the Orissa Grama Panchayats (Amendment) Act, 1994 or, if applicable, within a period of one year of such commencement, unless he begets an additional child after the said period of one year."

It is acknowledged that the appellant gave birth to his third child on March 11, 1993, and his fourth on November 6, 1994. He therefore contended that since he is covered by the proviso to the aforementioned law, he should not be disqualified. Despite this submission, the Bench decided that

With effect from January 3, 1977, Entry-20A 'Population Control & Family Planning' was added to the Concurrent List in the Seventh Schedule by the Constitution (Forty-Second Amendment) Act, 1976. There is some relevance to this introduction. It was created in response to the nation's rapidly expanding population so that the Center and the States might create policies to slow the rate of expansion. One minor step in that direction is the Proviso to Clause (v) to Sub-Section (1) of Section 25 of the Act. As a result, the aforementioned Proviso had been in effect for the previous eighteen years or so. Because the protective proviso is still far away, the appellant's case is one of Text Book for attracting the disqualification provision.

Speaking through Justice Shripad, the Bench summarized the drawbacks and catastrophic consequences of population growth by citing reports from the Bodies of the United Nations and the writings of several academics in addition to precedents that affirmed and reaffirmed the objective of population control.

Almost everyone agrees that overpopulation leads to resource shortages, environmental deterioration, and increased socioeconomic problems. Listing all the other catastrophic effects of high population expansion in general and the demographic shifts that accompany it in particular is outside the purview of the Court. Ecosystems are being severely damaged by humans, making it difficult for future generations to lead good lifestyles.

In order to curb India's population growth, the Court even asked the Law Commission of India to suggest suitable legislation and policies.

"We have made the aforementioned observations to convey our profound concern about the impending population explosion and to emphasize the urgent necessity to develop suitable measures on a war footing in order to stop it. It is commendable that the Parliament saw the threat decades ago and created the Forty-Second Amendment to the Constitution, which added Entry 20A to the Concurrent List as previously stated. This made it possible for policies, whether legislative or not, to be implemented. However, we are forced to note that the current efforts to slow the rate of population growth are far from enough. It is imperative that civil society and constitutional institutions take action.

Based on this reasoning, the Court dismissed the writ appeal because it had

very little merit. The chairperson of the Law Commission of India was instructed to receive a copy of the ruling.

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