



NEWS REPORT

Date: 29 April 2013
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Title: Discrimination in child custody case.
Country: Sweden

Context

Issue at stake: The parenting ability of a parent with a disability.
Ground of discrimination: Disability

Source: The Equality Ombudsman v Sigtuna Municipality, The District Court of Attunda, case nr T 5508-12, judgement 2013-04-24.

Field: Social services
Legislative provisions: The Discrimination Act Chapter 2 Section 13.

Content

A.M. was a woman with an IQ of 60. Her cognitive skills were assessed to be at the level of a normal child age 10-12. She was living in a relation with M.C. a normal man. When A.M became pregnant the social board of the municipality started to evaluate her capabilities as a parent. A social secretary and the staff of the day care center where she worked, were of the opinion that she could not be left alone responsible for the children at the day care center and that she could not look after her own child alone. Other persons including the midwife at the maternity ward and her support coordinator were of the opinion that it was possible that she could – with help – do it. The father M.C. was of the opinion that A.M. could take care of their child and he intended to work and let her be home. The main criticism against him was that he did not realize that the mother was incapable of looking after their child alone.

The social board took the child into custody and the local administrative court confirmed the decision. The case went all the way up to the Supreme Administrative Court which decided that there was no legal ground for the custody decision. The social board should have let the child stay with the mother and investigated the case more thoroughly for instance by letting the mother take care of the child under supervision both individually and with the father. The family agreed that help was needed and had accepted to stay at an evaluation center.

The Equality Ombudsman also got the case and took it to the district court. The Ombudsman claimed that the family had been suffering a disfavor connected to the disability of the mother and asked for 200 000 SEK (approximately 22 000 Euro) for each family member.



The district court had no problem in finding a disfavor connected to disability. The main problem was how to construct a comparable situation. The court said that the comparable situation should be assessed not in relation to the treatment this municipality would have given to other persons in similar situations, but instead in relation to what ought to have been given according to the Administrative Supreme Court.

Relying on general information based on what a child 10-12 years old could do, due to the fact that the women had a mild cognitive disability with an IQ on that level, together with the assessments of the staff of the day care center was not good enough. Especially as other competent persons evaluated the mother differently. The Discrimination Act required a high quality individual assessment of this particular mother's ability to take care of the child and before that had been done a decision taking the child into custody was discriminatory. The mother got 100 000 SEK (11 000 Euro) in discrimination award, the father and the child got 75 000 SEK (8 300 Euro) each.

Internet link source and additional information:

<http://www.do.se/sv/Press/Pressmeddelanden-och-aktuellt/2013/Diskriminering-nar-kommun-tvangsomhandertog-barn/>