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The Japan Times NEWS

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NATIONAL / CRIME & LEGAL

Adult ward should have right to vote: court

2000 guardian system provision in poll law ruled unconstitutional

KYODO

ARTICLE HISTORY | MAR 14, 2013

The Tokyo District Court on Thursday ruled unconstitutional the provision in the Public Offices Election Law that strips the right to vote from adults helped by guardians.

A three-judge panel led by Judge Makoto Jozuka handed down the decision in a suit filed by a woman backed by an adult guardian against the government.

The decision was the first since the adult guardianship scheme was introduced in 2000.

The plaintiff, Takumi Nagoya, 50, a resident of the city of Ushiku, Ibaraki Prefecture, has Down's syndrome and midlevel intellectual disabilities. Her 81-year-old father, Seikichi, was picked as her guardian in February 2007.

The plaintiff had cast her votes in local and national elections before her father became her guardian.

She filed the suit with the Tokyo District Court in February 2011.

Prior to Thursday's ruling, Nagoya told reporters, "I wish I would go to polling station together with my parents."

The focal points of the trial were whether the right to vote or to run in elections can be curbed due to intellectual disabilities and whether it is reasonable to restrict an adult ward's rights, as the adult guardianship scheme is intended to protect their rights.

The Constitution's Article 15 says, "The people have the inalienable right to choose their public officials and to dismiss them. . . . Universal adult suffrage is guaranteed with regard to the election of public officials."

But the election law excludes adult wards and those who are in prison from the list of eligible voters.

Nagoya and her legal representatives argued that it is impermissible to restrict the right to vote or run in elections based on an individual's abilities.

Under the adult guardianship system, only property management abilities of adult wards are checked, they argued, adding that it is unreasonable to restrict adult wards' right to vote under the system.

In response, the government argued that voters, in order to exercise the right to vote, need intellectual abilities to understand candidates' positions.

Similar suits have been filed with the district courts in Sapporo, Saitama and Kyoto.

Data compiled by the Supreme Court show that guardians have been chosen for about 136,000 people as of the end of 2012 in Japan.

With Down's syndrome, Nagoya has been engaged in simple manual labor for about 30 years after graduating from a school for students with special needs.

Since she turned 20, Nagoya has never missed elections where she was eligible to vote. Before casting her votes, she does considerable research by watching television news programs and checking candidates' policies — things many voters today never do.

But election notices stopped coming to her after her father became her guardian in 2007.

Seikichi expressed his anger toward the current guardian system. "I assumed the role of guardian for my daughter only to protect her from being swindled out of her financial properties."

Poll unconstitutional

SENDAI
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