
(1980) 09 KAR CK 0019
In the Karnataka High Court
Case No : WP 15375/80

B.M. Tarakeshwari

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 22-09-1980

Acts Referred:

Constitution of India, 1950 — Article 15(4)

Karnataka Medical Colleges (Selection for Admission) Rules, 1980 — Rule 5(3)

Citation : (1980) 2 KarLJ 411

Hon'ble Judges : M. Rama Jois, J

Judgement

1. In this writ petition the petitioner has prayed for issue of a writ in the nature of mandamus directing the 2nd respondent to consider her case for selection to the first year M.B.B.S. Course for the academic year 1980-81 in respect of seats reserved in favour of backward community by an order of the State Government issued under Clause (4) of Art. 15 of the Constitution of India.

2. The petitioner passed the University examination conducted by the PreUniversity Board in 1977, securing 84 per cent in the optional group consisting of Physics, Chemistry, Maths and Biology. During the current academic year, the petitioner submitted her application to the second respondent-Selection Committee seeking selection for admission to the first year M.B.B.S Course. The petitioner belongs to Vokkaliga community which is declared as backward, by the order of the State Government issued under Clause (4) of Art. 15 of the Constitution 20 per cent of the seats in Technical and Professional Colleges are, reserved in favour of persons belonging to backward community. The condition however imposed in the order of the State Government is that even the persons belonging to any one of the backward communities specified in the Government Order would be entitled to be treated as backward class, if only the income of the parents is Rs. 10,000 or below, in the application submitted to the 2nd respondent the Committee, the petitioner claimed that she belongs to backward class. This was on the ground that she was adopted by one Huchaveeragowda under a registered adoption deed dated 26th October, 1979 and the income of

the said Huchaveeragowda, who also belongs to Vokkaliga community was less than Rs. 10,000. Obviously," the Committee has rejected the claim of the petitioner to treat her as belonging to backward class in view of sub-rule (3) of Rule 5 of the Karnataka Medical Colleges (Selection for Admission) Rules 1980 which specifically provides that a person cannot claim to belong to backward class or schedule caste or schedule tribe by virtue of adoption.

3. Sri B.G. Sridharan learned Counsel for the petitioner contended that sub-rule (3) of Rule 5 incorporated in the Rules issued by virtue of an executive order is invalid as it contravenes the provisions of the Hindu Adoptions and Maintenance Act. He submitted that when according to law the adoptive father of the petitioner was entitled to adopt the petitioner and consequently it was a valid adoption in law, it was not open for the State Government to issue an executive order which had the effect of nullifying the adoption so permitted by law.

4. In my opinion, the contention urged for (he petitioner is highly misconceived. The rule in question does not in any way affect the validity of the adoption. The petitioner is entitled to have all the rights available to an adopted child including the right to the property of the adoptive parents as provided by law. But the question for consideration in this writ petition is whether the State Government was right in specifying that adoptive children cannot claim to belong to backward class taking into account the income and status of the adoptive parents. Under Clause (4) of Art 15 of the Constitution, the State is entrusted with the responsibility of making special provisions in favour of such classes of citizens who are considered by it as socially and educationally backward. In exercise of that power it is competent for the State to determine the classes of persons who are educationally and socially backward and confer special concessions on them. The rule that the benefits or concessions conferred on backward classes of citizens cannot be extended to a person who did not belong to that class in the family of his birth, by getting into another backward family through adoption, is incorporated by the Government in exercise of that power. The object of the rule is obvious and quite reasonable. If a person belonged to a family which is considered as forward by the State and had all the advantages and better environment available to forward classes of citizens throughout his or her educational career upto the date of making an application to the Selection Committee making selection for Technical and Professional Colleges or for a substantial part of such period, such person cannot by going in adoption to another family before making the application to the Technical and Professional Colleges, claim the benefits of reservation conferred on persons belonging to the backward class. The rule is intended to prevent the abuse of the benefits of reservation made in favour of the backward class by persons belonging to forward class who knowing that they are unable to secure a seat on merit resort to the ingenious device of such adoptions. This was also the view taken by a Division Bench of this Court in *N.M. Nataraja v. Selection Committee, Medical and Dental Colleges*, (1972) 1 Mys.L.J. 226.

5. For the reasons aforesaid, I make the following order:

Writ Petition dismissed. No costs.