

(2003) 12 JH CK 0047
In the Jharkhand High Court
Case No : Writ Petition (C) No. 5070 of 2003

Divya Prakash Mishra

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-12-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 1 JCR 393

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Rajeev Ranjan, for the Appellant; SC II, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner seeks a declaration declaring him a local resident, native or domicile of Jharkhand in order to get preference in admission in the technical institutions against service men quota.

2. Petitioner's case is that he and his ancestors are the residents of State of Jharkhand and both his father and grand father did their education from Ranchi and employed in the service of Indian Army. The petitioner appeared in the Jharkhand Combined Entrance Competitive Examination, 2003 and was declared successful. He was also called for counselling by the respondents. The petitioner applied for his admission against Service Men Quota (shortly SMQ) but his admission was denied on the ground that he is not the "Mool Niwasi" (original resident) of the State of Jharkhand although he submitted permanent residential certificate duly issued by the Sub-divisional Officer, Ranchi dated 11.9.2003. It is contended by the petitioner that he was allowed to appear in the examination against SMQ after specified requisite eligibility i.e. being the son of an Ex Army man.

3. Respondents' case on the other hand, is that the petitioner is not the resident of Jharkhand and merely because he is a local resident of Ranchi, he is not

entitled to get benefit in the matter of admission. Respondents' further case is that the petitioner does not come within the purview of Clause 14.5 of the Prospectus and hence the admission of the petitioner has been denied in the Engineering course. It is contended that so far admission in SMQ is concerned, the same rules and regulations are applicable as of the year, 2001-2002 which is evident from Clause 14.5 of the Prospectus of 2001-2002.

4. Mr. Rajiv Ranjan, learned counsel appearing on behalf of the petitioner submitted that the respondents have committed serious illegality in refusing admission of the petitioner on the pretext that he is not "Mool Niwasi" of Jharkhand. Learned counsel submitted that not only the petitioner but his grand father also did his matriculation in the year, 1951 from Ranchi and he has got his own house at Ashoknagar, Ranchi. It is contended that the father of the petitioner also was born, grown up and carried his studies at Ranchi and ultimately employed in the service of the Indian Army in the year, 1976. The petitioner is . having his permanent residence in the State of Jharkhand and he was granted residential certificate by the Sub-divisional Officer, Ranchi and on the basis of this qualification the petitioner was invited for counseling but his admission was denied on the ground that he is not the "Mool Niwasi" of Jharkhand. I find force in the submission of the learned counsel.

5. From perusal of the prospectus of 2003 it appears that Clause 14.5 relates to reservation against Service Mens' Quota according to which a candidate should be resident/native of Jharkhand or son of retired service man or wards of those who are in service also and a certificate should be issued by the Deputy Commissioner/ District Magistrate/Sub-divisional Officer. Admittedly three generations of the petitioner studied at Ranchi within the State of Jharkhand and that the father of the petitioner, after completing his education from Ranchi, joined the service of the Army. It would therefore, be highly improper to say that the petitioner is not the resident/native of Jharkhand. It would also be highly absurd for the respondents to adopt the criteria of "Mool Niwasi" in the matter of admission against Service Men Quota.

6. Learned JC to the State counsel could not produce before me any rule or valid policy decision of the Government which debars the petitioner from taking admission against Service Men Quota.

7. For the aforesaid reason this writ application is allowed and the respondents are directed to take admission of the petitioner against Service Men Quota.