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**(2010) 04 AHC CK 0306**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 52252 of 2007**

Dr. Madhu Rana

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 22-04-2010

**Acts Referred:**

**Citation :** (2010) 4 AWC 3923

**Hon'ble Judges :** Sunil Ambwani, J;Kashi Nath Pandey, J

**Bench :** Division Bench

**Final Decision :** Allowed

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## Judgement

Sunil Ambwani and Kashi Nath Pandey, JJ.—Heard Sri Ashok Khare, learned senior advocate assisted by Sri V. D. Shukla for the petitioner. Learned standing counsel appears for respondent Nos. 1 and 2. Sri V. P. Varshney, learned Counsel appears for the U.P. Public Service Commission-respondent No. 3.

2. The petitioner has applied for the post of Medical Officer (Ayurved and Unani) in pursuance to the advertisement No. 1/2003-04 issued by the U.P. Public Service Commission, published in Employment News dated 21-27 June, 2003. Her candidature, as Other Backward Class (O.B.C.), has not been accepted by the Commission by its communication dated 31.8.2007 on the ground that her caste certificate has been issued from the State of Jharkhand.

3. The petitioner belongs to "koheri" sub-caste, which is mentioned at Sl. No. 7 of Schedule 1 of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994. Her father was permanently residing at village Arsande, Post Kanke, district Ranchi in the State of Jharkhand. She was issued a caste certificate dated 19.9.1997 by the competent authority, giving the name of her father Sri Nand Kishore Rana, belonging to sub-caste "koheri" and falls under the category of Backward Class. She got married to Dr. Bhola Nath Maurya at Varanasi on 27.4.2003. The marriage was registered at Allahabad as per certificate dated 1.7.2003. She

claims that at present she is residing at village Chanderpur, Basmahua, tehsil Phoolpur, district Allahabad, and has been issued a caste certificate by the Tehsildar, Phoolpur on 11.7.2003 also belonging to O.B.C., through her husband, giving the name of her husband as Sri Bhola Nath Maurya.

4. In the counter-affidavit of Dr. Jai Shankar Shukla, Incharge Medical Officer, Government Ayurvedic Hospital. Allahabad filed on behalf of Respondent Nos. 1 and 2, it is stated that the Public Service Commission has rejected her application and that proper answer will be given by the Commission.

5. Sri V. P. Varshney, counsel for the Public Service Commission, on the basis of instruction received by him from the Commission after seeking clarification from the State Government, would submit that under Government order dated 17.5.1984, it is clear that caste certificate is to be issued on the basis of birth, and it should have been issued in the name of father and further that caste certificates issued by other State are not applicable in the State of U.P.

6. Learned Counsel for the petitioner relied upon a Supreme Court decision in the case of U.P. Public Service Commission, Allahabad v. Sanjay Kumar Singh, 2003 SCC (L&S) 1081 : 2004 (1) AWC 146 (SC) and a judgment of Uttarakhand High Court in Jyoti Bala v. State of Uttarakhand and Anr. Writ Petition No. 297 of 2008 (S/B), decided on 16.12.2008-Special leave petition arising out of the said judgment was dismissed on merits by the Supreme Court.

7. In U.P. Public Service Commission, Allahabad v. Sanjay Kumar Singh (supra), it was held by the Supreme Court that person certified as S.C./S.T. in relation to one State, if migrates to another State, would not be entitled to benefits available to S.Cs./S.Ts. in the State in which he migrated unless he/she belongs to S.C./S.T. in that State also. In the present case sub-caste "koheri" falls under the category of Other Backward class both in the State of U.P. and Jharkhand. The Government order dated 17.5.1984 providing for admissibility of caste certificate in the name of a father also does not prohibit the petitioner to be as Backward Class as she belongs to the same caste even after her marriage. The certificate issued in the name of her father is a valid certificate for the purpose of admissibility of the caste of the petitioner.

8. An interim order was passed in this case on 25.10.2007 whereby the petitioner was permitted to appear in the interview, but her result was not declared without leave of the Court.

9. The writ petition is allowed. The letter of the U.P. Public Service Commission dated 31.8.2007 rejecting the petitioner's candidature for O.B.C. category is quashed. The Commission will declare the result of the petitioner treating her to be O.B.C. candidate.