
(2011) 06 UK CK 0117

In the Uttarakhand High Court

Case No : Writ Petition No. 1665 OF 2008 (M/S)

Gulab Singh

APPELLANT

Vs

Sub District Magistrate and Others

RESPONDENT

Date of Decision : 10-06-2011

Acts Referred:

Citation : (2011) 06 UK CK 0117

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.—Heard Mr. Ravi Babulkar, Advocate for the Petitioner and Mr. N.P. Sah, Standing Counsel for the State of Uttarakhand / Respondents.

2. The Petitioner was a candidate for Special Basic Teaching Certificate (hereinafter referred to as Special BTC) training in district Champawat. In order to get this training one of the essential certificates which the Petitioner had to produce was a permanent residence certificate. Petitioner produced the same stating that he is a resident of Champawat. All the same, at the time when the Petitioner underwent training of Special BTC due to some complaint against the Petitioner, the permanent residence certificate of the Petitioner was cancelled by the Sub Divisional Magistrate, Lohaghat, district Champawat vide order dated 31.7.2007 (Annexure No. 11 to the writ petition) and the Petitioner was not permitted to complete the training. It is this order which is under challenge before this Court. The reason assigned by the concerned Authorities for cancelling the permanent residence certificate of the Petitioner is that as per Government Order dated 20th November, 2001, one must stay at a district for a period of 15 years and only then one is liable to be given such a certificate.

3. The Petitioner says that he already has a domicile certificate. In the show cause notice, this fact has been admitted by the Respondents. The Respondents have stated that this domicile certificate is of district Nainital and not of district

Champawat.

4. Be that as it may, this Court has consistently held in *Neha Saini v. State of Uttarakhand* and *Anr.* AIR 2010 UTR 36 and *Smt. Dr. Madhu Arya v. State of Uttarakhand* and *Ors.* reported in 2011 (1) U.D. 292 that there is nothing like a "provincial domicile" in India and each citizen of India carries with him or her only one domicile which is "Domicile of India". Regarding giving a permanent residence certificate the condition of 15 years" stay at a place as is given in Government Order dated 20th November, 2001 is both harsh and unreasonable. Even the Constitution of India imposes a condition of only five years in order to give a person a citizenship of this country. The order dated 31.7.2007 is therefore liable to be set aside, being arbitrary and unreasonable and is hereby set aside.

5. It has been informed at the bar by the learned Counsel for the Petitioner that in view of the interim orders of this Court dated 19.9.2008 and 31.11.2008, the Petitioner has by now undergone the Special BTC training and the Petitioner has also passed the Special BTC examination. This being the factual situation, Respondent No. 2 is now also directed to declare the result of the Petitioner. It is further directed that in case the Petitioner seeks a permanent residence certificate from the concerned Authority, the same shall be given to the Petitioner. All the concerned Authority has to do before granting such Certificate is to ensure that it must take an affidavit from the Petitioner that he is a permanent resident of district Champawat and that he has not asked for such a certificate for elsewhere nor received any such certificate from any place or any other State in India. After furnishing this affidavit by the Petitioner, the concerned Authority shall issue a permanent residence certificate in favour of the Petitioner.

6. The writ petition stands allowed.

7. No order as to costs.