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**(2009) 10 UK CK 0017**  
**In the Uttarakhand High Court**

Jagdev Singh

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

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**Date of Decision :** 07-10-2009

**Acts Referred:**

**Citation :** (2009) 10 UK CK 0017

**Hon'ble Judges :** V.K. Bist, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

V.K. Bist, J.—By means of this writ petition the petitioner has sought a writ in the nature of certiorari quashing the impugned order dated 16th September, 2009 passed by respondent No. 2 (annexure No. 6 to the writ petition) whereby the petitioner and the complainants have been asked to appear before him for rehearing in the matter of caste certificate of the petitioner.

2. From the perusal of the record it appears that Writ Petition No. 683 of 2008 was filed by one Rajveer Singh (respondent No. 5 in the present writ petition) before this Court in which he questioned the Other Backward Caste Certificate dated 25th March, 2008 issued in favour of the petitioner. The writ petition was finally decided by this Court on 29.08.2008 directing the District Magistrate, Haridwar to decide the representation of Rajveer Singh, the petitioner therein. In pursuance of the order passed by this Court on 29.08.2008 the respondent No. 2/ District Magistrate, Haridwar passed an order on 27th November, 2008 in the matter. In his order the respondent No. 2 has given a finding that Rajveer Singh did not produce any documentary evidence in support of his version against the petitioner of his being ?Dheewar?, the sub caste of Backward Class category. The respondent No. 2 also opined that the petitioner is residing in Tehsil Laksar by birth. The respondent No. 2 also gave a finding that allegation of Rajveer Singh that petitioner has obtained the Backward Caste Certificate dated 25th March, 2008 by producing fake and frivolous documents was baseless. By this order dated 27th November, 2008 the District Magistrate referred the matter to

respondent No. 1/State for guidance. According to the learned Counsel for the petitioner the State has not given any reply so far and no direction is received by respondent No. 2.

3. It is pleaded that during the course of time the District General Secretary of B.J.P. made complaint against the petitioner to the District Magistrate on 26.06.2009 mentioning therein that the petitioner belongs to the 'Rajpoot' community and he has wrongly obtained the Backward Caste Certificate dated 25th March, 2008. It is further pleaded that on 8th July, 2009 one Pradeep Sharma also made a complaint to Mr. Madan Kaushik, Cabinet Minister in the State about the forged caste certificate obtained by the petitioner. Another complaint was also made to the Member of Parliament/Minister of State for Labour and Employment on 25.08.2009 questioning the same Backward Caste Certificate who also referred the matter to the District Magistrate/respondent No. 2. It is further contended that on 15.09.2009 Mr. Rajveer Singh (respondent No. 5 in the present writ petition) also made complaint against the petitioner's caste certificate which was endorsed by Mr. Matwar Singh Kandari, the Irrigation Minister. It is submitted that in view of the above developments, the District Magistrate, Haridwar issued a fresh show cause notice dated 16th Sep, 2009 asking the petitioner to appear before him on 29.09.2009 for rehearing the matter. Learned Counsel for the petitioner submitted that on 29th September, 2009 the District Magistrate was not available and now the matter has been adjourned for 13th November, 2009.

4. Heard learned Counsel for the parties and perused the entire material available on record.

5. Learned Counsel for the petitioner argued that once the District Magistrate has taken a decision in the matter and has referred the same to the State Govt. he should not have issued fresh show cause notice because he cannot legally decide the controversy and same can be decided by the State/respondent No. 1. He further submitted that the respondent-State has to pass order or issue direction and on the basis of the directions the respondent No. 2-District Magistrate can pass fresh orders in compliance of the directions issued by the State and the respondent-District Magistrate himself cannot re-adjudicate the matter.

6. Learned Addl. Chief Standing Counsel on the other hand submitted that the matter has yet not finally been decided by the District Magistrate/respondent No. 2, which is apparent from the order dated 27th November, 2008 itself. He further argued that the District Magistrate has given findings that the father of the petitioner was from Punjab State who came to Laksar in the year 1949 in search of some employment and since the father of the petitioner belongs to another State, the petitioner cannot be granted caste certificate in the State of Uttarakhand. In this connection he placed reliance on the Judgment of the Apex Court in SLP No. 24327/2005 Subhash Chandra and Anr. v. Delhi Subordinate Selection Board and Ors.

7. Having considered the submissions of learned Counsel for the parties and after going through the record, this Court is not convinced with the arguments of learned Counsel for the petitioner as from the order dated 27th November, 2008 it is clear that the District Magistrate has yet not taken any decision on the issue whether caste certificate can be given to the petitioner or not. There is substance in the arguments advanced by the learned Addl. Chief Standing Counsel and this Court is convinced with the arguments of learned Counsel for the State that since series of complaints have been made by various persons against the petitioner and the Member of Parliament of Haridwar district who is the Minister in the Central Govt. and also State Cabinet Ministers have referred the complaint to the District Magistrate, the District Magistrate has rightly initiated fresh inquiry in the matter. No order has yet been passed against the petitioner. It is open for the petitioner to participate in the enquiry and place his case before the District Magistrate, Haridwar and satisfy him regarding genuineness of his caste certificate. The District Magistrate, Haridwar is quite competent to take decision in the matter and he has rightly issued show cause notice to the petitioner. He is at liberty to pass order in the matter in accordance to law.

8. Consequently, the writ petition is dismissed in limine. No order as to costs.