

(2010) 08 UK CK 0051
In the Uttarakhand High Court

Konica Rathore

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 05-08-2010

Acts Referred:

Citation : (2010) 08 UK CK 0051

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

Bench : Single Bench

Judgement

V.K. Bist, J.—Supplementary affidavit filed by the petitioner in the Court today. Same is taken on record.

2. By means of this writ petition, the petitioner has challenged the order dated 29.07.2010 passed by respondent No. 4. Further prayer has been made for a direction to respondent Nos. 3 & 4 to issue other backward caste certificate to the petitioner forthwith treating her bonafide resident of State of Uttarakhand.

3. Brief facts of the case are that by caste petitioner is ?Nai Thakur? which belongs to other backward caste (O.B.C.). Petitioner was born on 12.03.1992 in District Udham Singh Nagar. The parents of the petitioner are residing in District-Udham Singh Nagar as permanent resident of State of Uttarakhand, prior to creation of State of Uttarakhand. Petitioner completed her High School Examination, 2008 from Govt. Girls Inter College, Pantnagar, District-Udham Singh Nagar. Thereafter, petitioner applied for various Entrance Examinations for academic session, 2010. Thus, petitioner is in urgent need of caste certificate. She applied for issuance of caste certificate in which respondent No. 4-Tehsildar, Tehsil-Kiccha gave a report on 29.07.2010 that petitioner is not entitled for caste certificate as she does not fulfill the criteria.

4. Learned Counsel for the petitioner submitted that caste certificate is urgently required by the petitioner for taking admission in the higher classes under the reserved quota. He also submitted that petitioner completed her High School Examination, 2008 from Pantnagar and also appeared in various Entrance

Examinations from the State of Uttarakhand. He further submitted that petitioner is born and brought up in the State of Uttarakhand. Therefore, it cannot be said that she is not original resident of State of Uttarakhand. Learned Counsel for the petitioner relied on paragraph 7 of the judgment given by the Division Bench of this Court in writ petition No. 316 of 2008 (S/B) in which this Court has observed that for defining expression 'original resident' one aspect which can be taken in constructing the interpretation is to include the period of residence of 15 years so as to connote the purpose and meaning of the expression 'original resident'. He argued that the action of the respondents in denying the caste certificate to the petitioner is not only illegal but also arbitrary.

5. Prima facie, this Court is of the view that at the time of creation of State of Uttarakhand, the petitioner was residing in State of Uttarakhand. She completed her education from the State of Uttarakhand. Now it cannot be said that she is not original resident of State of Uttarakhand. But, since final decision has not been taken by the Tehsildar so far, no order interim or final can be passed at this stage. But, in the interest of justice, the writ petition is disposed of with a direction to respondent No. 4-Tehsildar, Tehsil-Kiccha to take final decision on the application of the petitioner within a period of three days from the date of production of certified copy of the order.

6. Let a certified copy of the order be given to the counsel for the parties within 24 hours on payment of usual charges.

7. Interim relief application No. 6352 of 2010 also stands disposed of.