

(2015) 01 UK CK 0051

In the Uttarakhand High Court

Case No : Writ Petition (S/S) No. 1703 of 2014

Madhu Sudan Prasad

APPELLANT

Vs

State Of Uttarakhand and Others

RESPONDENT

Date of Decision : 15-01-2015

Acts Referred:

Citation : (2015) 01 UK CK 0051

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Niranjan Bhatt, for the Appellant; R.P. Sharma, Brief Holder, Advocates for the Respondent

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.

1. The petitioner belongs to a community, which is known as "Ranwalta" community. Members of this community primarily reside in District Uttarkashi, Uttarakhand. The Community has been declared as an "Other Backward Classes" (from herein after referred to as "the OBC") community by an order of the Government dated 31.01.2004. However, the Certificate was not being issued to the petitioner. Ultimately State Government vide order dated 19.11.2013 issued direction to the District Magistrate, Uttarkashi to issue OBC Certificate to the persons belonging to "Ranwalta" community of Uttarkashi. Petitioner was given an "OBC Certificate by the competent authority on 20.02.2014. Prior to this, the petitioner appeared in a test known as "Teacher's Eligibility Test" (from hereinafter referred to as "the TET"), in which he secured 100 out of 150 marks. In such test for a General category candidate it is necessary to secure 60% or above, for a SC/ST/OBC category candidate it is necessary to secure 50% or above to qualify such test. In other words has qualified the TET test. The petitioner also applied against the vacancy of Assistant Teacher in primary school which were advertised vide advertisement dated 01.02.2014. Petitioner applied on 14.02.2014, as a general category candidate. The last date of submission of

application form was 22.02.2014, thereafter it was extended till 3rd March, 2014. Earlier the petitioner had submitted his application form on 14.02.2014 [in which he had applied as a general category candidate] as he was not given an OBC Certificate for the reason that Patwaris who are the Revenue authorities who are liable to issue such Certificates, were on strike during this period. The petitioner obtained such a Certificate on 20.02.2014. On 22.02.2014 he dispatched the OBC Certificate to the concerned authority which was received on 25.02.2014, which was well before the last date which was 03.03.2014. Yet he is not being considered as an OBC candidate.

2. His OBC Certificate has not been accepted by the concerned authority for the reason that petitioner applied as a General category candidate in the selection process. As a General category candidate he has to procure 60% or above marks in the TET test for participation in such selection process, whereas for a OBC candidate he has to procure much less marks in TET test which is 50% or above.

3. According to the petitioner, the last date of submission of the application form was 03.03.2014 as it was extended by the Government. By 03.03.2014 petitioner had all the relevant documents including the OBC Certificate of Ranwalta. Thereafter, even if he would have been permitted to submit new form that would have been perfectly in order. However, inspite of doing that, petitioner merely dispatched the OBC Certificate, which was duly received by the concerned authority before the last date i.e. 03.03.2014. There is no dispute regarding the fact that petitioner is a member of "OBC community."

4. Under these admitted facts, there is no occasion for rejecting the candidature of the petitioner or not considering him as an OBC candidate. In view of this Court, the petitioner has been able to satisfy this Court as to the reasons why he filled the application form as a General category as he was not having relevant/valid Certificate by the concerned authority by that time.

5. In view thereof, the writ petition is allowed. The respondents are directed to consider the candidature of the petitioner on the post of Assistant Teacher in Primary School as an "Other Backward Classes" category candidate and in case petitioner is found qualified for such post, pass appropriate orders regarding giving him appointment on the post of Assistant Teacher in Primary School, provided there is no other ineligibility attached to the petitioner, and subject to the bona fide and veracity of the documents. No order as to costs.