

(1996) 11 SHI CK 0027

In the High Court Of Himachal Pradesh

Case No : Civil Revision No. 1951 of 1996

Miss Niru Deri and Another

APPELLANT

Vs

The State of H.P. and Others

RESPONDENT

Date of Decision : 21-11-1996

Acts Referred:

Citation : (1997) 2 ShimLC 23

Hon'ble Judges : M. Srinivasan, C.J.; L.S. Panta, J

Bench : Division Bench

Advocate : B.N. Misra, for the Appellant; Indar Singh, General for Respondents 1 and 3 and Vijay Thakur, for Respondent 2, for the Respondent

Judgement

M. Srinivasan, C.J.—The Petitioners have applied for Junior Basic Teacher Course. When the communications for interview were sent to them, the Petitioners were required to produce at the time of interview alongwith other certificates, a certificate from Revenue Authority not below the rank of Tehsildar of the area to show the District to which the Petitioners belong and a certificate from Revenue Authority not below the rank of Tehsildar of the area to show that the Petitioners are bona fide residents.

2. The first Petitioner is the daughter of one Prem Krishan Gautam, who was working as Lecturer in Hindi in various schools Sirmaur District from May 1973 to January 1990. He was serving again from August 1994 in Government Senior Secondary School, Sarahan, District Sirmaur. This Petitioner was born in District Sirmaur when her father was serving there. She had her education in that District. She has produced a certificate to show that she has passed Middle Standard Examination held in December 1987 and she has also produced a certificate issued to her on passing Matriculation examination. That examination was also taken by her in District Sirmaur. She has produced a certificate from Honourary Executive Magistrate, Krishangarh Kuthar (Kasuali), District Solan, that her father is serving in Government Middle School, Chandi, Tehsil Krishangarh, District Solan since 1967 and that he is a permanent resident of

Himachal Pradesh. That certificate bears the date 1-8-1992. At that time, the first Petitioner's father was serving in that District So a certificate has been obtained from the Honourary Executive Magistrate of that District After receiving communication for interview, the Petitioner's father applied for a certificate from the Tehsildar, Pachhad, District Sirmaur. The said Tehsildar made an endorsement on the application as follows:

The applicant is not having any property in Tehsildar Pachhad; however, the applicant is serving in Education Department in H.P. for the last more than 15 years as per the certificate of Principal, Government Sr. Section School, Sarahan dated 6-11-1996.

That application with the endorsement has also been produced by the first Petitioner as Annexure P-II.

3. It is very clear that the endorsement made by the Tehsildar, Pachhad, is wholly unwarranted. There is no necessity for any person to own a property in a particular place in order to claim that he is a bona fide resident of Himachal Pradesh. It is seen from the Hand-Book on Personnel Matters, Vol. I, Chapter 4, Paragraph 4.3 that a bona fide Himachali is defined as a person, who has a permanent home in Himachal Pradesh and includes a person who has been residing in Himachal Pradesh for a period not less than 15 years or a person who has permanent home in Himachal Pradesh but on account of his occupation he is living outside Himachal Pradesh. This paragraph was introduced by H.P. Government O.M. No. 12-7/63 SAD, dated 18th August, 1972. Thus there is no requirement that a person should own a property to claim to be a bona fide Himachali. The view expressed by tie Tehsildar in the note found in Annexure P-II is clearly erroneous. It is also seen from the same paragraph in the Hand-Book that certain officials have been authorised to issue certificates of bona fide Himachali on the basis of record wherever available to the effect that the person concerned is (i) having his permanent home in Himachal Pradesh; or (ii) residing in Himachal Pradesh for a period of 15 years; or (iii) having his permanent home in Himachal Pradesh is living outside Himachal Pradesh on account of bis occupation It should be mentioned that three categories mentioned in the paragraph are in the alternative If any person satisfies anyone of the requirements mentioned therein, then he can be considered to be a bona fide Himachali.

4. To drive the first Petitioner to get Anr. certificate from the Tehsildar, Pachhad, to the effect that she belongs to District Sirmaur or that she is a bona fide Himachali at this stage after the interview for the course is over will be doing great injustice to the first Petitioner. In such circumstances, we proceed to consider the sufficiency of the certificates produced by the first Petitioner in this case We have already referred to the said certificates and we are of the opinion that those certificates are sufficient to prove that the first Petitioner is not only a bona fide Himachali but she also belongs to District Sirmaur as she was born there and her father had served in that District for more than 17 years Hence,

we direct the Respondents to proceed on the footing that the first Petitioner belongs originally to District Sirmaur and the certificates produced by her are sufficient to meet the requirements of Clauses 3 and 4 of the communication sent to her for interview under No. HB/JBT Cell/96-270420, dated October 11, 1996.

5. As regards the second Petitioner Shri Ramesh Verma, a certificate has been produced by him from the Tehsildar, Rajgarh, District Sirmaur bearing date 11-1-1995, that he is bona fide residing in Himachal Pradesh and that he is permanent resident of Village Phagu, Post Office Shaya Chhamon, Tehsil Rajgarh, District Sirmaur. That certificate has been accepted by the Respondents to be sufficient to meet the requirements.

6. In such circumstances, we direct the Respondents to consider the Petitioners for selection on the basis of their merits on the footing that they belong to District Sirmaur. The writ petition is ordered accordingly. There will be no order as to costs.

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