
(1998) 12 AHC CK 0092
In the Allahabad High Court
Case No : C.M.W.P. No. 44354 of 1998

Raj Bahadur Singh

APPELLANT

Vs

State of U.P. and another

RESPONDENT

Date of Decision : 22-12-1998

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1998) 4 AWC 647 : (1998) AWC 647 : (1999) 2 UPLBEC 867

Hon'ble Judges : M.C. Agarwal, J;M. Katju, J

Bench : Division Bench

Advocate : Chandra Kumar Rai, for the Appellant;

Final Decision : Disposed Of

Judgement

M. Katju and M. C. Agarwal, JJ.—Heard learned counsel for the petitioner and the learned Standing Counsel.

2. The petitioner has prayed for a mandamus directing the District Magistrate. Chandauli to issue freedom fighter dependent certificate in favour . of the petitioner under Uttar Pradesh Public Service (Reservation for Physically Handicapped, Dependents of Freedom Fighters and Ex-Serviceman) Act. 1993. The petitioner claims to be a grandson of a former freedom fighter. A large number of petitions are coming up before this Court in which similar prayers are being made. The freedom fight in this country ended more than 50 years ago and, in our opinion, there must be a limit to the benefits being given to the dependents of the freedom fighters. The petitioner is only 18 years of age. The petitioner has invited our attention to U. P. Public Service (Reservation for Physically Handicapped, Dependents of Freedom Fighters and Ex-Serviceman) Act, 1993. in Section 2 (b) of the said Act the word "Dependent" had been defined to mean son, daughter, grandson and unmarried granddaughter of a freedom fighter. In our prima facie opinion, the provisions in the aforesaid Act for grant of Dependent of Freedom Fighter Certificate are violative of Article 14 of the Constitution. The dependents of freedom fighters are not a privileged class

over and above the ordinary public even after 50 years of end of freedom fight. However, we are not expressing any final opinion in this matter as we are issuing notice to the Union and State Governments to file reply and demonstrate how the aforesaid Act so far as it deals with the dependents of freedom fighters is constitutional.

3. Issue notice to the Attorney General of India and the Advocate General. U, P. Learned Standing Counsel for the Central Government and the State Government will communicate this order to the Attorney General of India and the Advocate General, U. P. They may file counter affidavit within a month.

4. List in the week commencing 25th January, 1998.