

(2010) 06 UK CK 0184
In the Uttarakhand High Court

Rakesh

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 25-06-2010

Acts Referred:

Citation : (2010) 06 UK CK 0184

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sudhanshu Dhulia, J.—Heard learned counsels for the parties.

2. The petitioner admittedly belongs to a caste known as "Kummhar" which has been notified as Other Backward Classes community in the State of Uttarakhand. All the same, this caste certificate is not being issued to the petitioner. The petitioner was born and brought up at Kotdwar, District Pauri Garhwal in Uttarakhand and claims to be a permanent resident of Uttarakhand. The petitioner was earlier granted a caste certificate by the competent authority on 12.8.1999, i.e. prior to the creation of the new State Uttarakhand, and when Kotdwar (Distt. Pauri Garhwal) was a part of the erstwhile State of Uttar Pradesh. However, the State of Uttarakhand was created by an Act of Parliament known as the U.P. Reorganisation Act, 2000. Consequently, there was a requirement from the petitioner to obtain another caste certificate. The request of the petitioner for a new caste certificate was denied by the District Magistrate, Pauri Garhwal vide its order dated 10.1.2006 by which he rejected the claim of the petitioner for a caste certificate solely on the grounds that the petitioner is not a "domicile" or "permanent resident" of Uttarakhand, as his ancestors have come from Moradabad, which is now in Uttar Pradesh. Although there is no quarrel that the petitioner is a member of Other Backward Classes community, the logic for not issuing the caste certificate to the petitioner is that he is not a domicile or permanent resident of Uttarakhand. This Court had an occasion to consider the aspect of domicile in Writ Petition (M/S) No. 146 of 2009 Neha Saini v. State of

Uttarakhand and Anr. 2009 (2) U.D. 561 where this Court has held that there is nothing like a "provisional domicile" and in India there is only one domicile for each citizen of India which is the domicile of India. Therefore now the rejection of the claim of the petitioner solely on the ground that the petitioner not being "domicile" of Uttarakhand is wholly misconceived and irrelevant. This Court, therefore, is of the view that there is no logic or plausible reason for the State Authorities to deny the petitioner the caste certificate. Particularly when the petitioner was born and brought up in Uttarakhand. The order dated 10.1.2006 passed by the District Magistrate, Pauri Garhwal is hereby set aside. The petitioner is declared to be a permanent resident of Uttarakhand. Respondent No. 3 is hereby directed to issue a caste certificate to the petitioner forthwith.

3. Learned Counsel for the petitioner Mr. Sudhir Singh has made a statement at the bar that the petitioner has been selected as a Lecturer (Mathematics) by the Public Service Commission and the appointment is denied to him solely on the ground that he has not been able to produce a caste certificate of O.B.C.

4. In view of the above, it is directed that in case the petitioner produces the caste certificate as directed above, the authorities concerned shall take a reasonable and consequential decision in accordance with law, as soon as possible.

5. With the aforesaid observations, writ petition is allowed. No order as to costs.