
(2012) 09 UK CK 0040

In the Uttarakhand High Court

Case No : Writ Petition No. (MS) 2063 of 2012

Ram Kishan

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 28-09-2012

Acts Referred:

Citation : (2012) 09 UK CK 0040

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Harshpal Sekhon, for the Appellant; Paresh Tripathi, Additional Chief Standing Counsel for the State of Uttarakhand, for the Respondent

Judgement

Hon"ble Sudhanshu Dhulia, J.—Heard Mr. Harshpal Sekhon, learned counsel for the petitioner and Mr. Paresh Tripathi, Additional Chief Standing Counsel present for the State of Uttarakhand. Learned counsel for the State prays for and is granted three weeks" time to file counter affidavit. Rejoinder affidavit to be filed within three weeks thereafter.

2. The petitioner claims to be a member of "Other Backward Class" (from hereinafter referred to as OBC), which is "Kumhar". It is not disputed by the State Authorities that the caste "Kumhar" is notified as OBC in the State of Uttar Pradesh as well as in the State of Uttarakhand. The petitioner now seeks caste certificate of the caste which he belongs and on which there is absolutely no dispute. The only ground on which such a certificate (OBC's caste certificate) pertaining to OBC caste is being refused to the petitioner by the respondents is that the petitioner is not a permanent resident of the State of Uttarakhand, as he has not been able to show that he is residing in the State of Uttarakhand for the last 40 years.

3. In view of the decision of this Court in Neha Saini Vs. State of Uttarakhand and another reported in AIR 2010 Utt. 36 as well as in Ajay Kumar v. State of Uttarakhand and another (Writ Petition 124 of 2011 (M/S) such a caste

certificate cannot be declined.

4. Therefore, as an interim measure, the District Magistrate, Udham Singh Nagar is hereby directed to issue a caste certificate to the petitioner within a period of three weeks from the production of a certified copy of this order. It is made clear that before giving such certificate, the District Magistrate or the subordinate officer to whom the District Magistrate so directs shall take an affidavit from the petitioner to the effect that the petitioner is permanent resident of Uttarakhand and belongs to other Backward Class stating the particulars of the caste, and also that he has not applied for caste certificate from any other State. The validity of this provisional caste certificate will depend upon the final outcome of the present writ petition. List this matter after seven weeks in the daily cause list.