
(2013) 07 RAJ CK 0082

In the Rajasthan High Court

Case No : Civil Writ Petition No. 12573 of 2013

Ram Roop Meena

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 420, 467, 468, 471

Citation : (2013) 4 WLN 298

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : Shailesh Prakash Sharma, for the Appellant; V.B. Sharma, for the Respondent

Final Decision : Allowed

Judgement

Alok Sharma, J.—The facts of the case are that the petitioner resident of Madhya Pradesh is by caste a Meena - notified OBC in the State of Madhya Pradesh. He is stated to have now passed the National Eligibility cum Entrance Test (hereinafter "NEET") conducted by the Central Board of Secondary Education in the year 2013 and obtained 608th rank in OBC category. The petitioner's case is that in terms of his merit in NEET-2013 for admission into MBBS course, after counselling he has been admitted in the Netaji Subhash Chandra Bose Medical College, Jabalpur. It has been submitted that earlier in respect of AIPMT 2009-10 examination, the petitioner was admitted into SMS Medical College, Jaipur but subsequently on transpiring that the petitioner had obtained forged certificates with regard to his status as resident of Rajasthan and a Schedule Tribe in the State of Rajasthan, a FIR dated 16.09.2010 had come to be registered at Police Station Nayapura, Kota City in regard to fraudulent ST certificate obtained by the petitioner aside of also using a forged domicile certificate indicating him to be a resident of State of Rajasthan. On investigation by the Police, a charge-sheet has been filed against the petitioner for offences under Sections 420, 467, 468, 471 & 120B IPC before the Additional Chief Judicial Magistrate, No. 6, Kota The

petitioner has been granted bail in the pending criminal case. The further case of the petitioner is that various documents pertaining to the petitioner unrelated to his prosecution before the ACJM No. 6, Kota are in the custody of the Principal, SMS Medical College, Jaipur as they were submitted at the time of the petitioner's admission into the said College following AIPMT 2009-10 examination. It is submitted that the mark-sheets of class 10th and class 12th issued by CBSE Board, certificates of class 10th and class 12th also issued by CBSE Board, transfer certificate and character certificate issued by the Jawahar Navodaya Vidyalaya, District Sheopur (M.P.) are in the custody of the Principal, SMS Medical College, Jaipur and do not form part of the charge-sheet and have no relevance for trial of the petitioner in the pending case before the ACJM No. 6, Kota yet are being arbitrarily withheld by the Principal, SMS Medical College, Jaipur. It is submitted that in the event the said documents with the Principal, SMS Medical College, were not to be released to the petitioner, the petitioner would be denied the benefit of his admission into Netaji Subhash Chandra Bose Medical College, Jabalpur where counselling has already completed. The petitioner, allotted the said college, is required to submit his original class 10th and class 12th mark-sheets and certificates issued by the CBSE Board as also transfer certificate and character certificate issued by the Jawahar Navodaya Vidyalaya, District Sheopur (M.P.).

2. In these circumstances, it has been prayed that the Principal, SMS Medical College, Jaipur be directed to return the original documents of the petitioner in his custody and unrelated to the criminal trial pending before the ACJM No. 6, Kota. It has also been prayed that the letter dated nil issued by the Principal, SMS Medical College & Controller of Attached Hospitals, Jaipur informing the brother of the petitioner that the original documents of the petitioner cannot be released, be quashed and set aside.

3. Reply to the petition has been filed by the respondent-SMS Medical College, Jaipur. It has been submitted that the petitioner had obtained admission into SMS Medical College, Jaipur fraudulently on the basis of a forged domicile certificate as also a fraudulent caste certificate indicating him to be a ST (Meena), resident of State of Rajasthan when in fact he is a Meena - OBC in the State of Madhya Pradesh. In view of the criminal conduct of the petitioner, the admission of the petitioner in SMS Medical College had been cancelled on 03.01.2012 and the petitioner is suffering a criminal case before the ACJM No. 6 Kota for offences committed by him. It has been submitted that the Additional Superintendent of Police, Kota vide letter dated 10.05.2012 has informed the Principal, SMS Medical College, Jaipur that the petitioner not only obtained forged caste certificate showing him to be a ST (Meena) domicile in the State of Rajasthan, but also fabricated a ration card, class 8th mark-sheet, certificate of Adarsh Bal Niketan School, Kota and photo identity card in the course of his conspiracy to obtain a ST (Meena) certificate domiciled in the State of Rajasthan. It has been submitted that the original documents with the Principal, SMS Medical College, Jaipur are part of the evidence in the criminal case pending

against the petitioner before the ACJM No. 6, Kota and therefore are necessary to be kept on record and it would not be proper to release the testimonials of the petitioner without the permission of the concerned trial court. It is submitted that in this view of the matter, the prayer of the petitioner in the writ petition with regard to the release of his class 10th and class 12th mark-sheets and certificates issued by CBSE Board as also the transfer certificate and character certificate issued by Jawahar Navodaya Vidyalaya, District Sheopur (M.P.) cannot be allowed.

4. Heard the counsel for the petitioner as also the respondents.

5. The factum of the petitioner's criminal activity in obtaining a caste certificate as ST (Meena) domiciled in the State of Rajasthan is not the issue before this Court. The petitioner misguided as he was, prima facie appeared to have committed forgery and fraud and has been challaned for offences under Sections 420, 467, 468, 471 & 120B IPC before the ACJM No. 6, Kota. Based on the charges before the trial court, the petitioner shall be hopefully served his just dessert.

6. However, the issue in the present writ petition is not with regard to the criminal case against the petitioner, but with regard to the withholding of certificates by the Principal, SMS Medical College, Jaipur unrelated to the alleged offences and in spite of the fact that the said mark-sheets/certificates were not seized/recovered by the police in the course of criminal investigation against the petitioner nor form part of the challan before the trial court. The petitioner states to have been admitted to Netaji Subhash Chandra Bose Medical College, Jabalpur after having succeeded in the NEET 2013 examination and after counselling. The petitioner is now required by the said college to submit his class 10th and class 12th mark-sheets and certificates issued by CBSE Board as also the transfer certificate and character certificate issued by Jawahar Navodaya Vidyalaya, District Sheopur (M.P.) (prior to the criminal case). From the reply of the writ petition, it does not transpire that the said documents were forged by the petitioner or that they are relevant to the criminal trial being faced by the petitioner before the ACJM No. 6, Kota. Even though prima facie being an accused in the criminal trial before the ACJM No. 6, Kota, the petitioner cannot be said to be denuded of his other fundamental and legal rights. The petitioner does indeed appear to have a right to pursue his course as a MBBS student at Netaji Subhash Chandra Bose Medical College, Jabalpur where he is admitted.

7. In view of the aforesaid facts and the right of the petitioner to pursue his MBBS course in Netaji Subhash Chandra Bose Medical College, Jabalpur, I would direct that the mark-sheets and certificates of the petitioner pertaining to class 10th and class 12th issued by CBSE Board as also the transfer certificate and character certificate issued by Jawahar Navodaya Vidyalaya, District Sheopur (M.P.) to be released to the petitioner. The Principal, SMS Medical College, is directed to do so immediately and in any event within three days from the filing of a certified copy of this order. The writ petition is allowed accordingly. Stay

application needs no address in view of the petition being allowed.