
(2016) 08 JH CK 0025
In the Jharkhand High Court
Case No : W.P.(C) No. 3815 of 2016

Randhir Kumar

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 03-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 AIRJharR 668 : (2017) 1 JCR 320

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Prashant Pallav, Advocate, for the Petitioner; Mr. Rajiv Sinha, ASGI, for the UOI; Mr. Srijit Choudhary, Advocate, for the Respondent-BIT

Final Decision : Disposed Off

Judgement

Mr. Aparesh Kumar Singh, J.— Heard learned counsel for the parties.

2. Petitioner on having qualified in the Joint Entrance Examination (Main), 2016 for admission in Engineering courses was provisionally allotted seat through letter dated 29th June, 2016 issued by the Joint Seat Allocation Authority (JoSAA), 2016 - respondent no.2 i.e. Annexure-2. He produced a scheduled caste certificate issued on 12th September 2014 by the Block Development Officer, Hariharganj showing himself to be belonging to the caste "Dusadh" and a resident of village Belaudag, Hariharganj, Palamau, Jharkhand. He, however, also produced a caste certificate issued by the Sub-Divisional Officer, Chattarpur, Palamau dated 8th July 2016 after completion of the first round of seat allotment on 5th July, 2016. Petitioner came to know that on account of the production of the caste certificate issued by the Block Development Officer, Hariharganj he had failed to fulfil the eligibility criteria prescribed by JoSAA, 2016, as contained in the brochure and also in terms of the eligibility certificates required to be produced under Annexure-2 provisional seat allotment letter. Therefore, he has approached this Court.

3. Petitioner has relied upon the documents enclosed to the counter affidavit of respondent BIT, Mesra as well as the respondent no.2 JoSAA-2016 which are the form of certificate to be produced by Scheduled Caste and Scheduled Tribe candidate and the brochure on reservation for SC, ST and Other Backward Classes in service (Annexure-R2/A) issued by the Department of Personnel and Training, Government of India 2014. According to him, the Block Development Officer comes within the categories of officer authorised to issue such a caste certificate as per Chapter-8 of the brochure Clause-8.2(i) which prescribes not only the District Magistrate/Additional District Magistrate/Collector/Deputy Collector and other categories, but also an Executive Magistrate. The Block Development Officer of a Block in the State of Jharkhand is in the rank of Deputy Collector/Executive Magistrate. Therefore, the certificate issued by him should have been treated as sufficient to fulfil the prescribed eligibility criteria.

4. Relying upon the judgment rendered by the Apex Court in the case of Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Anr. reported in 2016 (2) JBCJ 19 (SC) it is submitted that certificate of caste by a competent authority is only an affirmation of fact already in existence of the status of the person concerned. The status of such a person like the petitioner, who belongs to Scheduled caste category, is so by birth and not by acquisition of this category because of any other event happening at a later stage.

5. There is a definite confusion even as per the stands of respondents reflected through their counter affidavit whether for the purposes of admission through JEE to an engineering course the certificate issued by the Block Development Officer equivalent to the rank of Deputy Collector and Executive Magistrate in the State of Jharkhand is enough to satisfy the criteria prescribed. Petitioner has within a short time on 8th July 2016 procured a certificate of caste from the Sub-Divisional Officer and also produced the same which is treated to be after cut-off date.

6. It is submitted that admission in Engineering colleges is not a joke and a serious candidate like the petitioner has to undertake lot of strenuous preparation to compete with thousands of other candidates for taking such admission who should not be denied the same on such flimsy pretext. Therefore, this Court would be kind enough to exercise its discretionary jurisdiction to direct the respondent to allow him admission in the Department of Electrical and Electronics Engineering in the respondent-BIT, Mesra.

7. Respondent-BIT, Mesra has in its counter affidavit relied upon the format prescribed by JoSAA-2016 and taken the plea that it is guided by the instructions issued by the JoSAA in such matters.

8. Learned A.S.G.I. appearing for the Union of India and JoSAA-2016 has also relied upon the brochure (Annexure-R2/A) the format of certificate of scheduled caste/scheduled tribe enclosed thereto and referred to the different authorities who are authorised to issue such caste certificate. According to the learned

counsel, the authorised officer may vary from State to State and that is why the Ministry of Personnel, Public Grievance and Pension, Department of Personnel and Training, Government of India has written to the Chief Secretaries of all the State Governments/Union Territories to supply the list of officers/offices authorised by the State Government/Union Territory to issue caste/social status certificates along with the copies of the relevant notifications to that effect. In the said letter dated 3rd September, 2015 also the categories prescribed by the Ministry of Personnel are in the same manner as per the brochure of JoSAA 2016 Annexure-R2/A which indicates not only the District Magistrate/Additional District Magistrate, etc. but also the Deputy Collector/Executive Magistrate.

9. I have considered the submissions of the parties and gone through the relevant materials on record.

10. The conspectus of the facts noticed above, do present a hard case for the petitioner who though has been able to obtain a certificate of scheduled caste from the Sub-Divisional Officer, Palamau on 8th July 2016 but at the time of seat allotment on 5th July, 2016 could only adduce a scheduled caste certificate of the Block Development Officer, Hariharganj issued earlier on 12th September, 2014. There appears to be some confusion apparent in respect of the categories of authorities prescribed in the certificate format prescribed by JoSAA, 2016 as apart from the District Magistrate/Additional District Magistrate and other officers, an officer of the rank of Deputy Collector/Executive Magistrate has also been shown in the said category. It is not in dispute that the Block Development Officer in the State of Jharkhand holds the rank of Deputy Collector which is also equivalent to the rank of Executive Magistrate. Counsel for the petitioner has relied upon a communication of the Department of Personnel, Administrative Reforms and Rajbhasha dated 22nd October, 2008 which indicates the time limit prescribed for issuance of caste certificate at various levels of the District Administration i.e. 7 days each for Block/Circle Office, Sub-Divisional Office or the District Collectorate. The State Government may have modified the requirement of issuance of caste certificate subsequently to be issued by the SDO or the Deputy Commissioner of the concerned District but so far as admission to Engineering course are concerned, the format prescribed and the brochure of JoSAA do enlist such categories of officers which includes Deputy Collector/Executive Magistrate also. The Court is conscious that this issue may have wider ramifications in respect of admission to Engineering courses under JoSAA, 2016 in various colleges affecting a number of candidates also.

11. In such circumstances, it is considered appropriate that the case of the petitioner be considered sympathetically by JoSAA, 2016 for the purposes of arriving at a decision relating to his eligibility in the matter of admission to the Bachelor of Engineering Courses in the respondent- BIT, Mesra within a period of one week from the date of receipt of a copy of this order.

12. The writ petition stands disposed of accordingly.