
(2007) 06 UK CK 0052

In the Uttarakhand High Court

Case No : Civil Miscellaneous Writ Petition No. 800 of 2006 (M/B)

Rizwan Anwar

APPELLANT

Vs

State of Uttaranchal and Others

RESPONDENT

Date of Decision : 06-06-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 1 UC 144

Hon'ble Judges : Rajeev Gupta, C.J.; J.C.S. Rawat, J

Bench : Division Bench

Advocate : Kurban Ali, for the Appellant; J.P. Joshi, Chief Standing Counsel and Lalit Sharma, Brief Holder, for the Respondent

Final Decision : Dismissed

Judgement

J.C.S. Rawat, J.—By means of this Writ Petition, moved under Article 226 of the Constitution of India, the Petitioner has sought the following reliefs:

- i. Issue a writ, order or direction in the nature of mandamus commanding and directing to the Respondent authorities to issue the permanent residence certificate in the favour of the Petitioner.
- ii. Issue a writ, order or direction which this Hon"ble Court may think deem fit and proper in the circumstances of the case.
- iii. Award the cost.
- iv. Issue a writ, order or direction in the nature of Certiorari to quash the order dated 15-07-2006 passed by the District Magistrate Udham Singh Nagar which is annexed as annexure No. CA1 to the counter affidavit.

2. Brief facts of the writ petition are that the Petitioner has been residing with his family at Kheda Colony, Tehsil Kichcha, Rudrapur since his birth. Anwar Ahmad - father of the Petitioner has been working as Driver in the Transport Corporation since 1986. The father of the Petitioner is residing at Kheda Colony, Tehsil

Kichcha, Rudrapur, Udham Singh Nagar. The State Government issued a GO. No. 2588/Ek-4/Sa. Pr./2001 dated 20th November, 2001 regarding the issuance of Permanent Residence Certificate to the persons who have been residing in the State of Uttarakhand. The Petitioner was selected for counseling in the Uttarakhand P.M.T. and for this reason the Petitioner is required to submit the permanent residence certificate. The Petitioner applied for Permanent Residence Certificate before the authorities concerned. The Patwari submitted his report to the Tehsildar, but the Tehsildar instead of issuing the certificate stated therein that the Petitioner has completed his Intermediate education from District Bareilly, U.P. Thereafter, the Tehsildar sought certain queries regarding the education of the Petitioner from Patwari. Thereafter, the Petitioner met with SDM, who sought report from the Patwari. It was further stated that the Petitioner has completed his education from Baheri, District Bareilly, U.P. and he was residing with his father. He was having a bus-pass issued by the Uttarakhand Transport Corporation. He used to travel daily from Kheda Colony, Kichcha to Bareilly to attend his classes. It was further alleged that Ward No. 5 Kheda, Tehsil Kichcha, Nagar Palika Parishad Rudrapur has issued a certificate in favour of the Petitioner stating therein that the Petitioner has been residing at Kheda, Rudrapur for 20 years. It was further stated that the Petitioner has applied for the Permanent Residence Certificate under the provisions of G.O.s issued by the State Government, but the Respondents rejected the application to issue the Permanent Residence Certificate in favour of the Petitioner. Feeling aggrieved by this, the Petitioner has filed this writ petition before this Court.

3. The Respondents have filed counter affidavit and admitted that the father of the Petitioner is posted in Uttarakhand Transport Corporation. It was stated that the Petitioner has obtained a travelling pass from the Uttaranchal Transport Corporation, but he is not having any substantial proof that his residence is at Khera Colony, Tehsil Kichcha, Rudrapur, District U.S. Nagar. It was also alleged that the certificate issued by the ward member is not admissible for issuing the P.R.C., as the certificate issued by the member does not hold any legal sanctity. It was further alleged that the Petitioner does not fulfill the conditions as given in the G.O. No. 2588/EK-4/Sa/2001 dated 20-11-2001 and the Petitioner did not submit the substantial certificate as required and as such the Permanent Residence Certificate cannot be issued in favour of the Petitioner. At last, it was pleaded that the writ petition is devoid of merit and is liable to be dismissed. The Petitioner has also filed the rejoinder affidavit in support of his petition.

4. Heard Mr. Kurban Ali Advocate for the Petitioner and Mr. Lalit Sharma Brief Holder for the Respondents/State. Perused the record.

5. Learned Counsel for the Petitioner contended that the Petitioner alongwith his family members has been residing at Kheda colony, Rudrapur since his birth. The father of the Petitioner has been working as Driver in the Uttarakhand Transport Corporation since 1986. It was further contended that the Petitioner has applied for the permanent residence certificate to file it before the competent authority

at the time of counseling of P.M.T. showing himself to be the bona-fide resident of Uttarakhand. But, the Respondents have refused to issue the said certificate arbitrarily ignoring the provisions of the law.

6. Learned Brief Holder for the Respondents refuted the contention and contended that the Petitioner does not fulfill the requirement as mentioned in the G.O. (Annexure-3 to the writ petition). He has not fulfilled the requirement to get the permanent residence certificate and as such no certificate was issued by the Respondent authorities. Perusal of the record reveals that the Petitioner has applied for seeking the permanent residence certificate to the authority concerned. The application form (Annexure-4 to the writ petition) submitted by the Petitioner is as follows:

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7. Perusal of the said application reveals that the Petitioner was required to show his date and place of birth. He has not mentioned his place of birth. The Petitioner has not filled the column Nos. 6 to 8. He has not mentioned the place of his birth and other requirements mentioned in the application. Perusal of the report of the Patwari which is also annexed at Annexure-IV clearly reveals that the Petitioner was born in Bareilly, U.P. The Patwari has also indicated in his report that his father is employed in the Uttarakhand Transport Corporation, Rudrapur. Perusal of the application further reveals that the Petitioner was required to fill all columns in the application form and also to make a declaration at the end of the application. The Petitioner has left column Nos. 7 & 8 unfilled and he filled the column No. 6 incompletely. The Petitioner has not given his place of birth in his application. Thus, while filling the application form the Petitioner had not come before the competent authority with clean hands to seek the domicile certificate. The Petitioner has also filed an affidavit (Annexure-7 to

the petition) alongwith the application form. The said affidavit is also vague and it is purported to have been given by the landlord of the house where the father of the Petitioner has been residing. The Petitioner has also filed a certificate issued by the Assistant Regional Manager, Uttaranchal Transport Corporation, Rudrapur that the Petitioner used to travel from Rudrapur to Bareilly by bus. The application further reveals that the authority has issued a certificate that the father of the Petitioner has been working as Driver in the Uttarakhand Transport Corporation since 07-11 -1986 and he is residing at Khera Colony, Rudrapur, U.S. Nagar. The certificate is apparently incorrect as the State of Uttaranchal (now "Uttarakhand") was created in the year 2000 and in the year 2003 the Uttarakhand Transport Corporation was formed. The ration card was prepared in the year 2006. The Petitioner has further alleged in his petition that he was residing with his father in Tehsil Kichha, Rudrapur and he completed his education from National Public School, Baheri, Bareilly, U.P. It was also alleged that he has been permanently residing in Khera colony, Kichha, Rudrapur and he used to travel from Rudrapur to Baheri to attend the classes in the said institution. In support of his contention, the father of the Petitioner filed a certificate that his son had a bus pass by which he used to travel from Rudrapur to Baheri, Bareilly. This certificate was issued without indicating any date of issuance. The certificate Annexure-5 is as under:

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8. It is further surprising that as to how the Assistant Regional Manager can certify that the Petitioner had been going to Baheri from Rudrapur daily by bus. The distance between Kichha, Rudrapur and Baheri is more than 20 kms. The educational facilities were also available at Rudrapur and Kichha. Perusal of the record and the application form itself reveal that the Petitioner had avoided to make the declaration to show his place of birth and other relevant information to the competent authority as mentioned in G.O. It is also required in the aforesaid G.O. that he must declare that he has not obtained any permanent residence certificate from the state other than Uttarakhand. The Petitioner could not demonstrate us that he has made such declaration before the competent authority. In the absence of such declaration the Petitioner is not entitled to get the permanent residence certificate.

9. In view of the above, it is apparent that the Petitioner does not fulfill the condition as prescribed in the G.O. dated 28-11 -2001. Therefore, the Respondent authorities were perfectly justified in not issuing the permanent residence certificate in the favour of the Petitioner. We do not find any infirmity in the impugned order dated 15-07-2006 passed by the District Magistrate, Udham Singh Nagar. Therefore, the petition devoids of merit and is liable to be dismissed. The petition is dismissed accordingly.