

(2002) 09 AHC CK 0238

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 3936 of 2002

Satpal Meena and Others

APPELLANT

Vs

State of U.P. Public Service Commission and Others

RESPONDENT

Date of Decision : 05-09-2002

Acts Referred:

Constitution of India, 1950 — Article 341(1), 342(1)

Citation : (2003) 1 UPLBEC 349

Hon'ble Judges : N.K. Mehrotra, J;G.P. Mathur, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

G.P. Mathur, J.—This writ petition under Article 226 of the Constitution has been filed praying that a writ of mandamus be issued commanding the respondents to treat the petitioners as members of the Scheduled Tribes for the purpose of appearing in the competitive examination of Provincial Civil Service conducted by the U.P. Public Service Commission (for short, the Commission). Another prayer has been made that the condition mentioned in the advertisement issued by the Commission which lays down that the Scheduled Castes, Scheduled Tribes and Other Backward Classes etc. who are not permanent residents of the State of U.P. shall not be given benefit of reservation, may be quashed.

2. It is averred in the writ petition that the petitioner Nos. 1 to 3 and their family members are permanent residents of a village in district Dausa in the State of Rajasthan. It is further averred that Meena is a Scheduled Tribe in Rajasthan and they have been given benefit of reservation in employment as members of the said community. The Commission issued an advertisement for holding a preliminary examination to the Combined State/Upper Subordinate Services, the advertisement contained a condition to the effect that the reservation to Scheduled Castes of U.P./Scheduled Tribe of U.P., Other Backward Class candidate of U.P. shall be permissible to the candidates in accordance with the provisions of the Act and the Rules applicable at that time.

3. The contention of the learned Counsel for the petitioners is that the aforesaid condition in the advertisement which confines the benefit of reservation to Scheduled Castes of U.P./Scheduled Tribe of U.P., Other Backward Class candidate of U.P. is illegal and this benefit should be available to the petitioners who have been recognised as Scheduled Tribes in the State of Rajasthan. The provision to recognise the Scheduled Castes or Scheduled Tribes are given in Articles 341 and 342 of the Constitution which read as under:

"341. Scheduled Castes.-(1) The president may with respect to any State or Union Territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory, as the case may be.

342. Scheduled Tribes.-(1) The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be."

4. These provisions show that the President in consultation with the Governor of the State shall by public notification specify the tribes or tribal communities or parts or groups within the tribes or tribal communities which shall be deemed to be Scheduled Tribes in relation to that State. They also show that the recognition granted to a caste or group or tribe as a Scheduled Caste or as a Scheduled Tribe in one State will not automatically grant the aforesaid recognition, in another State. The contention raised by the learned Counsel for the petitioners has been negated by the Constitution Bench of the Apex Court in Action Committee on issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the Action Committee on Issue of Caste Certificate to scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another Vs. Union of India (UOI) and Another, wherein it was held as under :

"It must also be realised that the language of clause (1) of both the Articles 341 and 342 is quite plain and unambiguous. It clearly states that the President may specify the castes or tribes, as the case may be, in relation to each State or Union Territory for the purposes of the Constitution. It must also be realised that before specifying the castes or tribes under either of the two Articles the President is, in the case of a State, obliged to consult Governor of that State. Therefore, when a class is specified by the President, after consulting the Governor of State A, it is difficult to understand how that specification made "in relation to that State" can be treated as specification in relation to any other State whose Governor the President has not consulted."

5. In view of the aforesaid authorities pronouncement by the Supreme Court, the

plea raised by the petitioners cannot be accepted.

6. The writ petition is accordingly dismissed summarily at the admission stage.