

(2010) 07 UK CK 0156
In the Uttarakhand High Court

Shailesh Yadav (Minor)

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 23-07-2010

Acts Referred:

Citation : (2010) 07 UK CK 0156

Hon'ble Judges : V.K. Bist, J

Bench : Single Bench

Judgement

V.K. Bist, J.

Writ Petition No. 1249 of 2010 (M/S)

1. List this petition in the week commencing 9th August, 2010. In the meantime respondents may file their counter affidavits.

(Interim Relief Application No. 5939 of 2010)

2. Present petition has been filed by the petitioner for quashing the impugned order dated 20.07.2010 passed by respondent No. 4-Tehsildar, Tehsil Kichha, District Udham Singh Nagar. Further prayer has been made for a direction to respondent Nos. 3 & 4 to issue the Other Backward Caste certificate to the petitioner forthwith treating him to be bonafide resident of State of Uttarakhand.

3. Brief facts of the case are that petitioner belongs to the Aheer caste, which is notified as Other Backward Caste in the State of Uttarakhand. The father of the petitioner has been residing in Pantnagar, District Nainital since his birth. The petitioner was also issued the domicile of State of Uttarakhand. The petitioner was born on 10.05.1994 and from his childhood he studied at Pantnagar. Petitioner passed his class XIIth Examination in the year 2010 from Campus School, Pantnagar, Udham Singh Nagar, Uttarakhand. The petitioner applied for the caste certificate on 21.06.2010 before the authority concerned. As petitioner is claiming benefit of reserved category for admission in higher classes, he applied for the caste certificate. The petitioner submitted each and every

documentary evidence alongwith his application, but the respondent No. 4 i.e. Tehsildar, Tehsil Kichha, District Udham Singh Nagar has rejected the application of the petitioner on the ground that the proof regarding domicile of the petitioner is incomplete. Aggrieved by the impugned rejection order present writ petition has been filed.

4. Learned Counsel for the petitioner submitted that petitioner belongs to Other Backward Caste and earlier in the year 2008 a caste certificate was issued to him by the respondents. He further submitted that the petitioner was born and brought up in the State of Uttarakhand. In such circumstances it cannot be said that he is not an original resident of State of Uttarakhand. He further submitted that father of the petitioner and his family is staying in Pantnagar, District Nainital since birth. Learned Counsel for the petitioner relied on paragraph 7 of the judgment given by the Division Bench of this Court in writ petition No. 316 of 2008 (S/B) in which this Court has observed that for defining expression "original resident" one aspect which can be taken in constructing the interpretation is to include the period of residence of 15 years so as to connote the purpose and meaning of the expression "original resident". He argued that the action of the respondents in denying the caste certificate to the petitioner is not only illegal but also arbitrary.

5. Prima facie, I am satisfied with the arguments of learned Counsel for the petitioner. Therefore, direction is issued to respondent No. 3-Sub Divisional Magistrate, Rudrapur, District Udham Singh Nagar and to respondent No. 4-Tehsildar, Tehsil Kichha, District Udham Singh Nagar to issue provisional caste certificate to the petitioner in accordance with law within a period of three days from the date of production of certified copy of the order. The same shall be subject to the decision of the writ petition. The petitioner is also directed to complete required formalities at the time of submission of certified copy of the order.

6. Let a certified copy of the order be given to the counsel for the parties within 24 hours on payment of usual charges.

7. Application stands disposed of.