

(1999) 08 BOM CK 0090
In the Bombay High Court
Case No : Writ Petition No. 4301 of 1999

Shivaji Hakke

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 30-08-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 Bom 33 : (1999) 4 ALLMR 346 : (2000) 1 MhLj 98

Hon'ble Judges : S.B. Mhase, J;J.A. Patil, J

Bench : Division Bench

Advocate : G.N. Chincholkar, for the Appellant; V.B. Ghatage, Asstt. Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

S.B. Mhase, J.—Heard.

2. Rule, returnable forthwith by consent of the parties.

3. The petitioner is seeking admission to D. Ed. Course and is claiming admission in a reserved quota for the Hilly area candidates, which is 20% of the total admissions. However, the claim of the petitioner was not considered on the ground that the petitioner has not passed S. S. C. examination from Hilly area i.e. petitioner's own village Nimtok, taluka Kalamnuri, district Hingoli. Petitioner has passed S. S. C. examination from village Wapati, taluka Basmathnagar, district Parbhani which is not included in "Hilly area. It is the case of the petitioner that at Nimtok there was no secondary school and, therefore, petitioner had to shift for education purpose to Wapati, taluka Basmathinagar and the petitioner has completed S. S. C. from that school. The respondents have accepted that at Nimtok there is no secondary school wherefrom the petitioner could have completed education up to S. S. C. It is also admitted by the respondents that Nimtok is from hilly area. In these circumstances, it is improper to insist for compliance of Rule 6 and thereby to reject or refuse the

admission to the petitioner. This Court has already taken a view in Writ Petition No. 3607 of 1999 in respect of the students coming from hilly area who could not complete their S. S. C. education from hilly area but, who belong " to hilly area and, has directed the authorities to consider their claims as the candidates or the students from hilly area, if they are otherwise found fit for admission.

4. It is further revealed from the Government Resolution dated 1-7-1997 bearing No. TCM 1890/Mashi-4 that the Government has issued instructions that if the candidate belongs to the hilly area, however, there is no facility of S. S. C. or H. S. C. in his village and, therefore, he has passed the said examination from non-hilly area, then such a candidate may be given the benefit of the hilly area. Only those candidates who belong to the hilly area and have not availed of the facility of the S. S. C. or H. S. C. even though available in the hilly area are not entitled to the said benefit. This resolution was not brought to our notice when we passed order in Writ Petition No. 3607 of 1999. However, it becomes clear ultimately that the view taken by us is as per Government policy reflected in the Government Resolution.

5. In view of this, this petition is allowed. We direct the respondents that the petitioner be treated as a candidate from hilly area for admission to the D. Ed. course and petitioner's claim for admission may be decided as a candidate from hilly area, if the petitioner is otherwise found fit for admission on merits. Rule made absolute in the above terms.