

(2012) 12 UK CK 0039

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2520 of 2012

Smt. Shashi Bala

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 06-12-2012

Acts Referred:

Citation : (2012) 12 UK CK 0039

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : Neeraj Garg, for the Appellant; Paresh Tripathi, Additional Chief Standing Counsel for the State of Uttarakhand, for the Respondent

Judgement

Hon"ble Sudhanshu Dhulia, J.—Mr. Neeraj Garg, Counsel for the petitioner and Mr. Paresh Tripathi, Additional Chief Standing Counsel for the State of Uttarakhand. Learned counsel for the State prays for and is granted three weeks" time to file counter affidavit. Rejoinder affidavit to be filed within three weeks thereafter.

2. The petitioner claims to be a member of "Scheduled Caste" (from hereinafter referred to as SC), which is "Balmiki". Petitioner further claims that he is residing in the territory of Uttarakhand. It is not disputed by the State Authorities that the caste "Balmiki" is notified as SC in the State of Uttar Pradesh as well as in the State of Uttarakhand. The petitioner now seeks caste certificate of the caste which she belongs and on which there is absolutely no dispute. The only ground on which such a certificate (SC"s caste certificate) pertaining to SC caste is being refused to the petitioner by the respondents is that the petitioner has not been able to show that she is a permanent resident or more particularly "Mool Niwasi" of the State of Uttarakhand.

3. In view of the decisions of this Court in Neha Saini Vs. State of Uttarakhand and Another, , Smt. Dr. Madhu Arya Vs. State of Uttarakhand and Others, as well as in Ajay Kumar Vs. State of Uttarakhand & another (Writ Petition 124 of 2011

(M/S), such a caste certificate cannot be declined.

4. Therefore, as an interim measure, the District Magistrate, Dehradun is hereby directed to issue a provisional caste certificate to the petitioner within a period of three weeks from the production of a certified copy of this order. It is made clear that before giving such certificate, the District Magistrate or the subordinate officer to whom the District Magistrate so directs shall take an affidavit from the petitioner to the effect that the petitioner is a permanent resident of Uttarakhand and belongs to SC stating the particulars of the caste, and also that she has not applied for caste certificate from any other State. The validity of this provisional caste certificate will depend upon the final outcome of the present writ petition. List this matter after seven weeks in the daily cause list.