

(2018) 10 UK CK 0120

In the Uttarakhand High Court

Case No : Writ Petition No. 2360 Of 2015 (M/S)

Sunil Saini & Another @APPELLANT@Hash State Of Uttarakhand & Another

Date of Decision : 09-10-2018

Acts Referred:

Citation : (2018) 10 UK CK 0120

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Parikshit Saini, V. D. Bisen

Final Decision : Allowed

Judgement

Alok Singh, J

1) By means of present writ petition, petitioners seek following prayers, among others:

â??(i) Issue a writ, order or direction in the nature of certiorari quashing the order dated 18.02.2015 passed on the applications of the petitioners

where the caste certificate has been denied (contained as Annexure-7 to the writ petition).

(ii) Issue a writ, order or direction in the nature of mandamus commanding the respondent nos.1 & 2 to issue caste certificate to the petitioners

treating the petitioners bonafide resident of Uttarakhand State.â??

2) Brief facts of the case are that the father of the petitioners settled in Haridwar District in the year 1984, started living in a rented accommodation

and was working as driver in the Konark Transport company. Petitionersâ?? father belonged to District Saharanpur, Uttar Pradesh and purchased a

residential plot in Haridwar in the year 1992 and got constructed a house over there. The father of the petitioners (i.e. Mahipal Singh) was issued an

OBC certificate on 25.01.1998 (Annexure-2 to the petition) and a permanent resident certificate on 18.04.2009 (Annexure-4 to the writ petition). The

Permanent Resident certificates were also issued in favour of petitioners on 13.12.2011.

For the purpose of taking scholarship, petitioner no.2 was issued an OBC certificate on 28.10.2005 (Annexure- 5 to the petition). The father of the petitioners was also issued an OBC certificate on 15.04.2005.

3) The petitioners applied for OBC certificates, but the same were rejected on 18.02.2015. Hence, present writ petition has been filed.

4) Learned counsel for the petitioners submits that the father of the petitioners purchased a residential plot and got constructed a house on the said plot

in the year 1992; the petitioners are residing in the said house since 1992; they belong to caste Saini, which is notified as OBC in the State of

Uttarakhand; and the father of the petitioners was issued an OBC certificate as well as permanent resident certificate. It was further contended that

the petitioners are permanently residing in the State of Uttarakhand in village Jagjeetpur, Mohalla Peeth Bazar, Tehsil Haridwar. He submitted that the

petitioners were brought up in the State of Uttarakhand and they studied in the State of Uttarakhand. Learned counsel for the petitioners submitted

that as per the Government Order dated 02.04.2013 (Annexure-8 to the writ petition), the petitioners are entitled for caste certificate.

5) Clause 3 of Government Order dated 02.04.2013 clearly indicates that the caste certificate will be issued to SC, ST and OBC of undivided State of

Uttar Pradesh when they are found permanently residing in the State of Uttarakhand since 09.11.2000. It is not in dispute that the father of the

petitioners (i.e. Mahipal Singh) was issued an OBC certificate on 25.01.1998 as well as Permanent Resident Certificate on 18.04.2009. Despite of the

facts that the Permanent Resident certificates were issued in favour of petitioners on 13.12.2011; petitioner no.2 was issued an OBC certificate on

28.10.2005; and father of the petitioners was again issued an OBC certificate in April, 2005, the application of petitioners for issuing OBC certificate

was rejected on the ground that the petitioners are not residing in the State of Uttarakhand since 1985. The State of Uttarakhand was carved out from

the State of Uttar Pradesh in the year 2000 and, moreover, perusal of Annexure-6 to the petition itself shows that the OBC certificates were issued in

favour of petitioners on 23.01.2015. As per the Government Order dated 02.04.2013, the petitioners are entitled to get caste certificate, inasmuch as they got the permanent resident certificate and earlier the OBC certificates had also been issued in their favour. If the certificate issuing authority feels that earlier certificates have been obtained by the petitioners by furnishing false information, it may cancel, impound or revoke such certificates after conducting an enquiry. In the instant case, this is not the case where the respondent authority has alleged that earlier certificates were obtained by the petitioners by furnishing false information. In that situation, the respondent authority cannot deny the petitioners for issuing OBC certificate.

6) In view of the observations made above, the writ petition is liable to be allowed. Consequently, the writ petition is hereby allowed. Impugned order dated 18.02.2015 (Annexure-7 to the petition) is hereby quashed. A writ of mandamus is issued commanding the respondent nos.1 & 2 to issue OBC certificates in favour of the petitioners. No order as to costs.