
(2012) 10 JH CK 0049
In the Jharkhand High Court
Case No : Writ Petition (C) No. 4572 of 2012

Tausif Raza

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 06-10-2012

Acts Referred:

Constitution of India, 1950 — Article 12, 343

Citation : (2013) 1 JLJR 15

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Advocate : Jay Prakash Pandey, for the Appellant; Prabhash Kumar, Advocate for the Union of India and Mr. Faizur Rahman Nos. 2 and 3, for the Respondent

Final Decision : Allowed

Judgement

D.N. Patel

1. Counsel for the petitioner seeks leave to delete paragraph 7 of the memo of the writ petition and Annexure 3 thereto. Permission, as sought for, is granted.
2. The Annexure 3 will be deleted along with paragraph 7 of the memo of the writ petition and this amendment shall be carried out during course of the day.
3. The present petition has been preferred by the petitioner-student seeking a direction upon respondent nos. 2 and 3 for his admission in the Indian Institution of Technology, New Delhi as his case has been rejected by the respondent nos. 2 and 3 only on the ground that the caste certificate (annexure 2 to the memo of the petition) submitted by the petitioner before the respondent authority, is in Hindi and not in English language and further the said caste certificate is also not in the format (Appendix-4 in Annexure R-1 of the counter affidavit) prescribed by the Indian Institute of Technology, as stated in paragraph 3 and 7 of the counter affidavit, to be read with Annexure R-1 and R-2 of the counter affidavit.
4. It is vehemently submitted by the counsel for the petitioner that the petitioner

has no control over the Government of Jharkhand so far as issuance of caste certificate is concerned, but the caste certificate, dated 2nd December, 2011, issued to the petitioner, though it is in Hindi language, contains all the necessary details, such as the caste of the petitioner, namely Momin, which falls in O.B.C. category, non-creamy layer and this certificate has already been submitted to the Indian Institute of Technology, New Delhi by the petitioner-student as stated in the para 6 of the memo of the petition. These facts have also not been controverted in the counter affidavit filed by the Chairman, I.I.T-J.E.E. Advanced 2013, New Delhi. It is further submitted by the counsel for the petitioner that petitioner is a meritorious student and he has secured 5355 position in All India Rank list, OB806 in All India Rank in OBC Rank List and OM52 in All India Rank in OBC Minority Rank List. Thus, he has secured higher position so far as O.B.C. minority category is concerned and such meritorious student has been denied admission only on the ground that caste certificate, which is a proof that he belongs to OBC category, has been issued in Hindi language and hence not acceptable to the I.I.T. Authority. It is also submitted by counsel for the petitioner that the certificate has been issued by the respondent State in the language preferred by them while I.I.T. is insisting that the caste certificate should be issued in English language only, as stated in para 3 of the counter affidavit. The petitioner, being a student, has no control over the State of Jharkhand so far as the language in which the State chooses to issue a caste certificate. However, the said certificate contains the following details:

- (a) Name of the petitioner;
- (b) Name of the father of the petitioner;
- (c) The place where the petitioner belongs to, namely district Garhwa;
- (d) Religion-Mohamedan;
- (e) Sub caste-Momin;
- (f) The fact that petitioner is not falling within the "Creamy Layer" of O.B.C. category, as described in the concerned circular issued by the Central Government

Thus, it is submitted by the counsel for the petitioner that the certificate issued in Hindi language, which is at Annexure 2 to the memo of the petition, contains every detail required by the respondent authority, but unnecessarily they are insisting for a caste certificate in English language and that too in their format, to which the Government of Jharkhand may not agree.

5. It is further submitted by the counsel for the petitioner that the petitioner has also applied for caste certificate in English language, which has been issued on 5th July, 2012 and submitted before the Respondent authority, but they are now insisting that the certificate should have been issued prior to January, 2012 and should be presented before June, 2012. The caste certificate issued in English language has been kept at Annexure 2/2 to the memo of the petition. The

petitioner-student has no control over the State of Jharkhand so far as language and format for issuance of caste certificate is concerned. Therefore, the fact remains that whatever certificate was issued by the Government of Jharkhand, they have already been supplied to the respondent authority. Thus, the insistence by the I.I.T., Delhi that the caste certificate should be in English language and in the format prescribed by the respondent authority may not be acceptable to this Court and it is apparent that for no fault of the petitioner he was denied admission in a prestigious institution like Indian Institute of Technology, though he has secured high ranks in the I.I.T-J.E.E.-2012 examination. It is also submitted by the counsel for the petitioner that certificate issued in Hindi language (Annexure 2) has already been submitted prior to June, 2012 and certificate issued in English language (at Annexure 2/2) has already been submitted to the respondent authorities after receiving the same from the State of Jharkhand and therefore, a suitable direction may be given to the respondents to admit the petitioner in Indian Institute of Technology, Delhi, which will, in turn, allot the institution according to the merit of the petitioner.

6. I have heard the counsel for respondent no. 2 and 3, who has submitted that petitioner was required to submit caste certificate in the language and format prescribed by the respondent authority, as stated in paragraph 3 and 7 of the counter affidavit, to be read with Annexure R1 and R2 of the counter affidavit, and since the petitioner failed to supply the same, petitioner's candidature has been rejected.

7. Counsel for the Respondent no. 1 submitted that he has adopted the arguments put forth by Respondent no. 2 and 3. However, it has further been submitted by the counsel for Respondent No. 1 that as per Article 343 of the Constitution of India, Hindi language is the official language of Union of India and hence documents in Hindi language should also be accepted, but if the institution has its own format, the petitioner should have presented the caste certificate in the prescribed format.

8. Having heard counsel for both sides and looking to the facts and circumstances of the case, it appears that the petitioner, a resident of district Garwah of the State of Jharkhand, is a student, who appeared in I.I.T-J.E.E. Examination-2012. He secured a rank and position as per the rank details issued by the Indian Institute of Technology, Delhi.

9. Thus, from the aforesaid details, with respect to rank secured by the petitioner, issued by the institution in question itself supports that fact that the petitioner is a meritorious student and if the objections would not have been raised by the respondents, he would have got admission easily in the Indian Institute of Technology. Now looking to the controversy closely, it appears that petitioner belongs to the Other Backward Classes category (non-creamy layer), Sub-Caste Momin and the petitioner had made application before the Government of Jharkhand for issuance of caste certificate in support of the above facts. In the State of Jharkhand, caste certificates are issued in Hindi language

and the same has been issued to the petitioner by the Dy. Commissioner, district Garhwa (which is at Annexure 2 to the memo of the petition). On perusal of Annexure 2, it appears that the document in question contains sufficient details with respect to the present petitioner, such as

- (a) Name of the petitioner;
- (b) Name of the father of the petitioner;
- (c) The place where the petitioner belongs to, namely district Garhwa;
- (d) Religion-Mohamedan;
- (e) Sub caste-Momin;
- (f) The fact that petitioner is not falling within the "Creamy Layer", as described in the concerned circular issued by the Central Government

10. Thus, it is apparent that the caste certificate issued by the Government of Jharkhand to the petitioner includes all the necessary details, which were asked by the respondent authorities for admission of the students in the Indian Institute of Technology, if they are otherwise meritorious. It is further submitted in the facts of the case that Respondent authorities are insisting for certificate in English language and that too in the format prescribed by the I.I.T. In this context it has to be kept in mind that a student has no control over a sovereign body like the State of Jharkhand and the State of Jharkhand issues caste certificate in their own preferred language as stated hereinabove and therefore, it is very much apparent that due to no fault of the petitioner, he has been denied admission.

11. It further appears from the facts of the case that the respondents have taken a view that the certificate should have been issued by the Government of Jharkhand in the format as prescribed by the respondent authorities and that too in English language and then only the petitioner would be admitted. This is not permissible in the eye of law and a certificate, containing all the details required by the Respondent authorities, even if issued in Hindi language, should have been given due weightage. It appears that respondent no. 2 and 3 has a fondness for English language. In this country the institution which is "State" within the meaning of Article 12 of the Constitution of India, should have prescribed their forms in Hindi also over and above in other languages. Any certificate issued in Hindi by any State cannot be ignored or brushed aside by the other institution which is also "State" within the meaning of Article 12 of the Constitution of India.

12. Looking to Article 343 of the Constitution of India, the official language of India is Hindi in Devanagari script. Article 343 of the Constitution of India reads as under:

343. Official language of the Union-(1) The official language of the Union shall be Hindi in Devanagari Script.

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the President may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of

(a) the English language, or

(b) the Devanagari form of numerals,

For such purposes as may be specified in the law.

Thus, Hindi has been adopted as the official language of the Union of India and therefore, the certificate in Hindi language, at Annexure 2, presented by the petitioner, which contains sufficient details as required by the Indian Institute of Technology, Delhi, ought to have been accepted by respondent no. 2 and 3. It appears that Respondent authorities have unnecessarily insisted for caste certificate in English language and that to in a format prescribed by them. Therefore, officials, who are adorning high positions in I.I.T., Delhi, should know that there are several States, which issues such certificates in Hindi language because Hindi is the official language of several States of the Union of India. The I.I.T. Authorities should also keep in mind that prescribed format in English language may not be accepted by these States, who are also sovereign bodies. I.I.T. is not a super sovereign body having control over the State of Jharkhand-sovereign body and demand for issuance of caste certificate in a particular language is unnecessary and runs counter to the principles enshrined in the Constitution of India.

13. Looking to the fact of the present case, it appears that the petitioner is a meritorious student and has secured high marks as per the certificate issued by the Respondent authorities and he has already stated in para 6 of his petition that he has not only submitted the caste certificate dated 2nd December, 2011, which has been issued in Hindi to the I.I.T. Authority but also a caste certificate issued in English language, which is dated 31/05/2012.

para 6 of the writ petition reads as under:

That the petitioner had submitted caste Certificate dated 02/12/2011 in Hindi version and caste Certificate dated 31/05/2012 in English version and Caste Certificate dated 05/07/2012 in English version which was not consider by the

authority

Photo copy of Caste Certificate dated 02/12/2011, dated 31/05/2012 and dated 05/07/2012 are annexed as Annexure-2, 2/1, 2/2 to this application.

This aspect of the matter has not been denied in the counter affidavit filed by the Respondent authorities.

14. Thus, too much insistence on the part of the respondent no. 2 upon a caste certificate in English language and that too in a prescribed format is an illegal action. The petitioner-student has no control upon the State of Jharkhand as stated hereinabove. Nonetheless, parents of the student must have moved from heaven to sky for getting the certificate in English language, which has been annexed as annexures 2/1 and 2/2 and that have also been supplied to the Respondent no. 2 and 3. Therefore, Respondent No. 2 and 3 should have taken a pragmatic view in the matter that a meritorious student should never be denied admission for this type of reason at all as Indian Institutes of Technology are the premier Institutions in India. Every meritorious student has a dream to get admission in I.I.T. The petitioner is falling within the merit list for getting admission in I.I.T. His dream, cannot be taken away by this type of objection, which runs counter to Article 343 of the Constitution of India.

15. In view of these facts and reasons I, hereby, direct the respondents to consider the case of the present petitioner for grant of admission in all the institutions where the petitioner is entitled to get admission on the basis of his marks and rank, details regarding which is at Annexure 1 to the memo of the petition.

16. Looking to his marks proper faculty will be given to the petitioner as per the options filled by him. The admission process will be completed by the respondents within a period of 10 days.

17. This petition is allowed and disposed of. I further direct the Registry to send this order initially by FAX message to the respondents and thereafter, by registered post for immediate action as stated herein above.