* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 13.11.2013

\+ W.P.(C) 1781/2012

ASHOK KUMAR MANDAL ..... Petitioner

Through: Mr Umesh Shandilya, Adv.

versus

THE GOVT OF THE NCT OF DELHI & ORS ..... Respondents

Through: Ms Ferida Satarwala, Adv for GNCTD

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner was born in the territory, which now forms part of State of Uttarakhand. The petitioner belongs to a caste known as 'Nomosudra' and his father migrated to Delhi in the year 1990, when the petitioner was about 2 years old. The Government of India, Ministry of Social Justice & Empowerment came out with a Scheme for grant of Post-Matric scholarship to the students belonging to Scheduled Castes, for studies in India. Only those candidates who belonged to Scheduled Caste so specified in relation to the State/Union Territory to which they actually belonged, i.e., permanently settled and who had passed the Matriculation or higher secondary or any higher examination were

eligible for grant of the said scholarship. The details of the Scheme were to be announced by the State Government which were to invite applications by issuing advertisements in the leading newspapers and the requests were to be addressed to the Government of the State/Union Territory to which the candidate actually belonged.

2. Vide advertisement published in newspapers, Government of NCT of Delhi, Department for the Welfare of the SC/ST/OBC/Minorities, invited the applications for grant of Post-Matric Scholarships for SC/ST/OBC students. The scholarship under the aforesaid advertisement was permissible only to those SC/ST/OBC students who possessed caste certificate, issued by Government of NCT of Delhi and were otherwise eligible under the Scheme. The petitioner applied for grant of scholarship under the said Scheme.

3. It appears from the letter dated 23.9.2010 written by the Government of India, Ministry of Social Justice and Empowerment to the Department for the Welfare for the SC/ST/OBC/Minorities, Government of NCT of Delhi that the name of the petitioner for award of scholarship under the above-referred Centrally sponsored Scheme was recommended by the Government of NCT of Delhi and after approval of the competent authority in the Ministry, the State

Government was requested to release the scholarship. However, the said scholarship was not released to the petitioner and a Committee was constituted by the Government of NCT of Delhi to examine his eligibility for grant of the said scholarship. Pursuant to the decision taken by the said Committee, Government of NCT of Delhi vide communication dated 16.12.2011 informed the petitioner that his application had been rejected on the ground that he had submitted a Scheduled Caste certificate which had been issued to him in Delhi on the basis of his father's certificate issued in Uttarakhand and, therefore, he was not entitled to Post-Matric Scholarship in Delhi, he being a migrant and he could claim such scholarship from Uttarakhand alone. Being aggrieved from the aforesaid communication, the petitioner is before this Court seeking the following reliefs:

> "a. Issue a writ of certiorari calling for the records of the respondents that led the respondents to make and pass the impugned order dated 26.12.2011 made by respondent No.3 (Annexure P-25) and upon a perusal of the same, set the impugned order aside;
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> b. Issue a writ of mandamus directing the respondents to forthwith release the funds for the Post Matric Scholarship of the petitioner."

4. As noted earlier, under the above-referred Centrally sponsored Scheme, the candidates belonging to Scheduled Caste so specified in

relation to the State/Union Territory to which they actually belonged, i.e., in which they were permanently settled were eligible for grant of the said scholarship. It would mean that only the candidates belonging to the castes which are specified as scheduled castes in relation to Delhi are entitled for grant of scholarship in Delhi. If a candidate belongs to a caste, which is not specified as a Scheduled Caste in relation to Delhi though specified in relation to some other State/Union Territory, he can seek scholarship only in the State to which he permanently belongs and in relation to which his caste is specified as a Scheduled Caste. Admittedly, 'Nomosudra' to which the petitioner belongs, is not notified as a Scheduled Caste in Delhi though it is stated to be so notified in relation to the State of Uttarakhand. Therefore, the petitioner is not entitled to grant of scholarship under the above-referred Scheme of the Government of India.

5. Even if the matter is examined on the basis of the advertisement issued by the Government of NCT of Delhi, the petitioner would not be eligible for the said scholarship since, the caste to which he belongs is not notified as a Scheduled Caste in Delhi. Though a caste certificate has been issued to the petitioner in Delhi, a perusal of the said certificate would show that it has been issued on the basis of the caste certificate

issued to the father of the petitioner in the State of Uttarakhand where 'Nomosudra' happens to be a notified Scheduled Caste. A Scheduled Caste certificate of the nature obtained by the petitioner in Delhi came up for consideration before a Division Bench of this Court in LPA No.587/2013 decided on 11.9.2013 in connection with admission to Guru Gobind Singh Indraprastha University against the seats reserved for the candidates belonging to Scheduled Castes and the following view was taken:

> "25. The reservation policy read along with the clarification contained in the Admission Brochure clearly indicates that in order to be considered for admission against seats reserved for Delhi Reserved category, the student should have passed his/her qualifying examination from Delhi school/college and should bring the SC/ST/OBC Certificate from the Government of NCT of Delhi. It is contended on behalf of the appellant that he has fulfilled both these conditions since his certificate of Scheduled Caste has been issued in Delhi. We are unable to accept this contention since the certificate issued to the appellant itself discloses that it is issued to the appellant based on an earlier certificate issued to his father in the State of West Bengal. This certificate only certifies that appellant belongs to the Rajbanshi Caste which is listed in the Presidential Order as a Scheduled Caste in relation to the State of West Bengal. The said certificate cannot be construed as certifying the appellant as belonging to a Scheduled Caste in relation to Delhi. The condition that the reservation certificate must be issued by the Government of NCT of Delhi would, in our view, not include a certificate issued which certifies a candidate to belong to a Scheduled Caste/Scheduled Tribe in relation to another State and which is issued solely on the basis of an earlier certificate issued by the concerned Authority of that State. Thus, in our view, the

appellant would not be entitled to admission against the Delhi Reserved category. A similar view has also been taken by the Supreme Court in the case of ***Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tributes in the State of Maharashtra and Anr. vs. Union of India and Anr.: (1994)5 SCC 244***."

In view of the above-referred decision of the Division Bench, the petitioner cannot claim scholarship in Delhi on the strength of the caste certificate issued to him on the basis of the caste certificate of his father issued from Uttarakhand.

6. In W.P(C) No.4748/2013 Ankit Roy versus Guru Gobind Singh Indraprastha University and others and the connected matters decided on 7.8.2013, this Court in relation to admission against the seats reserved for Scheduled Caste candidates held as under:

"(i) The candidates belonging to the communities, which are not included in the list of Scheduled Castes for Delhi, in the Presidential order, will not be entitled to admission in I.P. University, against the seats reserved for Scheduled Castes candidates;

(ii) The candidates, belonging to the communities, included in the list of Scheduled Castes, in the Presidential order, in relation to Delhi will be entitled to be considered for admission in I.P. University, against the seats reserved for S.C. Candidates only if they are residents of Delhi, in terms of the Presidential order dated 20th September, 1951, as amended from time to time, by the law made in this regard."

Tested on the above-referred proposition, the petitioner has no case for grant of such scholarship in Delhi.

7. For the reasons stated hereinabove, I hold that since 'Nomosudra' community to which the petitioner belongs is not notified as a Scheduled Caste in relation to Delhi, he is not entitled to grant of scholarship in Delhi.

The writ petition is accordingly dismissed.

NOVEMER 13, 2013 V.K. JAIN, J.
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