

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 3045 of 2016**

Pallawee Ganga D/o Ropan Ram Agariya, aged about 19 years, R/o Village Dumartoli, Post Songada, Tahsil Manora, District Jashpur (C.G.)

---- Petitioner**versus**

1. State of Chhattisgarh, Through: The Secretary, Health and Family Welfare Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (C.G.)
2. Ayush and Health Sciences University, Through: Registrar, Office at G.E. Road, Raipur, District Raipur (C.G.)
3. Chhattisgarh Professional Examination Board, Raipur, Through: Secretary, Office at Raipur (C.G.)
4. Director, Ayurvedik, Yog Awam Prakratik Chikitsa Unani, Siddh Awam Homiopathy (AHUSH), Chhattisgarh, Office at Raipur (C.G.)
5. Government Autonomous Ayurvedik College Raipur, Through: Principal, Office at Raipur (C.G.)
6. Sub Divisional Office, Jashpur, District Jashpur (C.G.)
7. Tahsildar, Manora, District Jashpur (C.G.)

---- Respondents

For Petitioner	:	Shri Yogesh Kumar Chandra, Advocate
For State/Respondents	:	Shri J.K. Gilda, Advocate General with Shri A.S. Kachhawaha, Additional Advocate General

Coram: **Hon'ble Shri Deepak Gupta, Chief Justice**
Hon'ble Shri Sanjay Agrawal, Judge

Order on Board**17/01/2017**

1. By means of this petition, the Petitioner prays that she belongs to the

Scheduled Tribe (ST) and she was granted a provisional caste-certificate in her favour and therefore she could not have been denied admission in the BAMS course.

2. The undisputed facts are that an advertisement was issued sometime in June or prior to June inviting applications for BAMS course. The Petitioner applied for admission to the BAMS course. She appeared in the written test and was successful in the same. She was called for counseling on 29th November, 2016 and on the date of counseling, the Petitioner produced a provisional caste-certificate issued in terms of Rule 10 of the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Act, 2013. The admission was not granted to the Petitioner on the ground that she has not produced the permanent caste-certificate. Thereafter, last date of admission was over on 30th November, 2016. Condition No.5 of the intimation of counseling clearly mentions that the SC, ST and OBC category persons must produce their permanent caste-certificate. When the requirement is that permanent caste-certificate has to be produced, the Petitioner cannot take benefit of a temporary caste-certificate.
3. On behalf of the Petitioner, it is urged that her father also has a permanent caste-certificate. It has also urged that the provisional certificate has been issued by the Naib Tahsildar in terms of Rule 10 of the Rules and therefore, the Petitioner should not suffer. As pointed out above, the advertisement was issued in May or June 2016. The Petitioner had passed her class 12th examination in the year 2014. If

she was intending to apply for any professional course, why did she wait for two years to apply for the caste-certificate. The Petition is absolutely silent as to when she applied for the caste-certificate. However Rules provide that the caste-certificate must be prepared and provided to the applicant within 15 days from the date of application being filed. Therefore, the applicant in fact filed an application for grant of temporary caste-certificate after the advertisement had been issued sometime around 20th July.

4. Be that as it may, when the requirement is that there should be a permanent caste-certificate, this Court cannot over rule that requirement, especially in view of the directions given in AIR 1995 SC 94 (Kumari Madhuri Patil vs. Addl. Commissioner, Tribal Development), wherein the Apex Court held as follows:

“1. The application for grant of social status certificate shall be made to the Revenue-Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such Officer rather than at the Officer, Taluk of Mandal level.

2. The parent, guardian or the candidate, as the case may be, shall file an affidavit duly sworn and attested by a competent gazetted officer or non-gazetted officer with particulars of castes and sub-castes, tribe, tribal community, parts or groups of tribes or tribal communities, the place from which he originally hails from and other particulars as may be prescribed by the concerned Directorate.

3. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before seeking admission into educational institution or an appointment to a post.”

5. The Apex Court had made it clear that the caste-certificates have to be issued by Revenue-Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate issued by lower authority is of no value. We are not in any manner saying that the Petitioner

belongs or does not belong to ST. However, the fact remains that the provisional certificate has been issued only on the basis of affidavit filed by the Petitioner and no inquiry was conducted at this stage.

6. We are dealing with the admission to professional course. The people who apply for professional course must have caste-certificate because later if the certificate is found false and admission is set aside, that seat remains vacant for the remaining years causing loss to the public at large. In cases where the student wants admission to professional course, they themselves must be vigilant and apply for the caste-certificate well within time. In this case, the Petitioner has applied for the caste-certificate probably after the date when she applied for admission to the course.
7. We are also of the considered opinion that the purpose of Rule 10 of the Rules is only to help the candidates to apply for admission. They must ensure that they get permanent certificate within time. This Court cannot conceive of the situation where students are admitted to the colleges and then their certificates are to be verified especially when professional courses are involve. Because of the judgment given by the Apex Court in professional courses once the last date for admission is over, no admission can be granted and the seats cannot be filled up. Therefore, if the admission are given on provisional caste certificate and later the student fails to furnish the caste-certificate, it would mean that seat would remain vacant. Therefore, the action of the Respondents in insisting on production of permanent caste-certificate before granting admission cannot be said to be illegal.

Furthermore, the last date of admission i.e. 30.11.2016 is already over. At this stage, we cannot grant any relief to the Petitioner.

8. The writ petition is dismissed accordingly.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE