

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 2900 of 2020**

Akanksha Uikey, D/o Dimchand Uikey, aged about 19 years,
R/o Q. No.2A, Road No.10, Sector-5, Bhilai Nagar, District
Durg (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Department of Health & Family Welfare, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (CG).
2. Secretary, Tribal Welfare Department, Mantralaya, Naya Raipur, Raipur (CG)
3. Directorate of Medical Education Raipur, Through its Director, Old Nurses Hostel, DKS Bhawan Parisar Raipur, District Raipur, Chhattisgarh.
4. Sub-Divisional Officer (Revenue) Durg, District Durg (CG)
5. Tahsildar Tehsil Bhilai, District Durg (CG)

---- Respondents

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 For Petitioner : Shri Harshmander Rastogi, Advocate.
 For Respondents : Shri Sudeep Agrawal, Dy Advocate General

Hon'ble Shri P. R. Ramchandra Menon, CJ**Hon'ble Shri Parth Prateem Sahu, J****Order on Board****Per Parth Prateem Sahu, J****27.11.2020**

1. Case projected by the petitioner in this writ petition is that in the year 1958 her grandfather & father migrated to the Chhattisgarh and since then they are residing in the State of

Chhattisgarh. The petitioner being born in the State of Chhattisgarh is permanent resident of State of Chhattisgarh. Petitioner successfully appeared in the National Eligibility – cum- Entrance Test (UG), 2020 (for short ‘NEET’), in the first round of counseling, she has been provisionally allotted medical seat in Pt. Jawahar Lal Nehru Memorial Medical College, Raipur, but on account of non-issuance of caste certificate of Scheduled Tribe category in favour of the petitioner by respondent No.4, she will be denied admission against the medical seat provisionally allotted to her. Hence, the petitioner has filed this petition seeking for following reliefs:-

- “i. To kindly direct the respondent authorities to consider the candidature of the petitioner for counselling and admission in NEET 2020 in medical college of State of Chhattisgarh for the reserved Schedule Tribe Category under Chhattisgarh domicile.
- ii. To direct the respondent Tehsildar, Bhilai, District-Durg and Sub Divisional Officer (revenue), Durg to consider the case of the petitioner for issuance of the Caste Certificate without insisting to produce the land records prior to the year 1950 expeditiously and within stipulated period of time.
- iii. To kindly make any other order that may be deemed fit and just in the facts and circumstances

of the case including awarding of the costs to the petitioner.”

2. Facts of the case, in brief, are that the petitioner belong to 'Gond' caste, which falls within the category of Scheduled Tribe, and a certificate to this effect has been issued to her by the Sub-Divisional Officer, Arvi (Maharashtra). In the State of Chhattisgarh also, the caste 'Gond' is notified in the list of Scheduled Tribes. Petitioner's grandfather migrated from Maharashtra to Chhattisgarh in the year 1958 to join service in Bhilai Steel Plant, Bhilai and since then they are residing in the State of Chhattisgarh. Petitioner also born and brought up in the State of Chhattisgarh. In the year 1983 a caste certificate of scheduled caste was issued in favour of petitioner's father by the Competent Authority, Durg. Petitioner appeared in the NEET Exam, 2019 for admission to MBBS under-graduate course as a Scheduled Tribe candidate. She became successful and her rank in scheduled tribe category was 44. However, she was denied admission on the ground that caste certificate submitted by her has been issued by the Competent Authority of State of Maharashtra. Petitioner again appeared in the NEET Exam, 2020, secured 24th rank in the category of scheduled tribe and she has been provisionally allotted medical seat in the Medical College at Raipur. The petitioner applied before respondent No.4 for grant of caste certificate, but till date no certificate has been issued to her

due to which she is finding it difficult to get herself admitted in the MBBS Course in allotted medical college.

3. Respondents No.1 to 3 filed their reply mainly pleading that the petitioner appeared in the NEET Exam, 2019 but her candidature was rejected on the ground that she produced caste certificate issued by the competent authority of the State of Maharashtra, whereas benefit of reservation is to be granted only to those candidates who are permanent residents of Chhattisgarh and whose forefathers were residing in the State of Chhattisgarh prior to 1950. Referring to several provisions contained in Rule 7 of the Chhattisgarh Chikitsa, Dant Chikitsa (Physiotherapy) Snatak Pravesh Niyam, 2018 (for short 'the Admission Rules, 2018') pleaded that there is specific requirement in Rule 7 that certificate obtained prior to the date of registration will only be considered. In the absence of any valid caste certificate issued by the competent authority of Chhattisgarh in favour of petitioner, she cannot be extended any benefit of reservation under scheduled tribe category, as claimed by her.
4. Mr. Harshmander Rastogi, learned counsel for the petitioner submits that the petitioner is born and brought up in the State of Chhattisgarh, therefore, as per provisions, the petitioner is entitled to get benefit of reservation of scheduled tribe, which is subject category in dispute. Petitioner belongs to scheduled

tribe category for which a caste certificate was also issued by the Competent Authority of State of Maharashtra, but in the year 2019 she was denied admission against the allotted medical seat. As per rules prevailing in the State of Maharashtra, the aspirants / students who prosecuted their studies of Class 10th & 12th in the State of Maharashtra are only entitled to get benefit of reservation. The petitioner applied for caste certificate but respondent No.4 has not issued the same till date due to which in this academic year also even after provisional allotment of seat in the Medical College at Raipur, the petitioner is finding it difficult to get herself admitted. He submits that respondent No.4 be directed to issue a caste certificate in favour of the petitioner.

5. Per contra, Mr. Sudeep Agrawal, learned Deputy Advocate General for the State submits that the petitioner's candidature for admission in MBBS course has already been turned down in the year 2019 for want of a caste certificate of Scheduled Tribe issued by the Competent Authority of the State of Chhattisgarh. Thus the petitioner was well aware of the fact that for admission against reserved seat of Scheduled Tribe category in any medical college situated within the State of Chhattisgarh, she is required to submit caste certificate of Scheduled Tribe issued by the Competent Authority of the State of Chhattisgarh. However, the petitioner has not made

any attempt or effort to obtain caste certificate from the competent authority and at the fag end, she has approached this Court seeking a direction to respondent No.4 for issuance of caste certificate in her favour. The petitioner was well aware that for getting admission in any medical college situated in the State of Chhattisgarh as Scheduled Tribe candidate, a caste certificate issued by the competent authority is an essential requirement but even then she slept over, not even submitted any application for the same till date. He further submits that as per stipulations made in the Rule 7 of the Admission Rules, 2018, the documents which are obtained prior to the date of registration are only required to be taken into consideration, hence no relief can be granted to the petitioner. He further submits that the petitioner is not entitled for grant of caste certificate in view of order dated 21.10.2019 passed by this Court in WPC No.2205/2019, parties being Ku. Pooja Awsarmol Vs. State of CG & ors, as admittedly the petitioner's progeny is from Maharashtra.

6. We have heard learned counsel for the parties and also perused the records.
7. There is no dispute that forefathers of the petitioner were residents of State of Maharashtra. Grandfather of petitioner migrated to Chhattisgarh in the year 1958. Petitioner has initially obtained caste certificate of Scheduled Tribe from the

State of Maharashtra which was produced by her during the course/ procedure of selection and allotment of seat in a medical college through NEET Exam, 2019, but after provisional allotment of seat, upon verification of documents, she was denied admission as against reserved seat of Scheduled Tribe for want of caste certificate duly issued by the competent authority of State of Chhattisgarh. Thus, in the year 2019 itself the petitioner became aware that for getting benefit as a scheduled tribe candidate, there is requirement of caste certificate issued by competent authority of the State of Chhattisgarh, but it appears from the record that the petitioner has not made any application to the competent authority of the State of Chhattisgarh for issuance of caste certificate. When the learned counsel for the petitioner has been pin-pointedly asked with regard to date on which application has been made to respondent No.4 for issuance of caste certificate, he submits that the document in this regard is filed in the writ petition with covering memo. Perusal of said documents would show that an application was made to respondent No.5 for issuance of caste certificate only on 19.11.2020 and this petition was also filed on 19.11.2020. Learned counsel for the petitioner could not able to point out any other application submitted before the competent authority on any date prior to filing of writ petition or submission of NEET Exam form. Even

otherwise, under the Chhattisgarh Scheduled Castes, Scheduled Tribes and Other Backward Classes (Regulation of Social Status Certification) Rules, 2013 (for short 'the Rules of 2013'), application is to be made under the prescribed form and then only competent authority will consider and decide the same in accordance with law. The petitioner is well aware about the importance of caste certificate to be issued by the competent authority of the State of Chhattisgarh, but till the provisional allotment of medical seat to her, she was sleeping and it appears that only after provisional allotment of a medical seat, she rushed to the Court seeking reliefs, as mentioned above, including direction to the respondents for issuance of caste certificate in her favour. In the facts and circumstances of the case, when no application in prescribed format for issuance of caste certificate is pending before the competent authority, no direction can be issued for expeditious issuance of caste certificate in favour of the petitioner.

8. So far as entitlement of the petitioner to get issued a caste certificate in her favour as a scheduled tribe candidate is concerned, under the Rules of 2013 a candidate applying for grant of social caste certificate is required to submit his/her application in different types of prescribed format i.e. Form 4A, 4B & 4C, according to their entitlement. The petitioner herself has pleaded in the petition that her grandfather migrated to

State of Chhattisgarh from Maharashtra in the year 1958, a caste certificate was also issued in favour of petitioner by the competent authority of the State of Maharashtra. In these circumstances, it is for the petitioner to make application in the proper format as per her entitlement which is to be considered by the competent authority in accordance with the Rules of 2013. As the petitioner has not submitted any application till date for issuance of caste certificate, we do not find any merit in this writ petition which is liable to be dismissed and is hereby dismissed. However, the petitioner will be at liberty to file appropriate application before the competent authority for obtaining caste certificate and if any such application is filed, the competent authority will decide the same on its own merits in accordance with law at the earliest.

Sd/-
(P. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-