

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

117/3

Civil Writ Petition No.25431 of 2016
Date of Decision: January 21st, 2020

Manjeet Nahar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Harinder Sharma, Advocate
for the petitioner.

Ms. Anu Pal, Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this writ petition is for issuance of a writ of mandamus directing respondents to consider the case of the petitioner for appointment to the post of Lecturer in Political Science in the reserved category of Scheduled Castes (Majhabi Sikh and Balmiki) by declaring her result withheld by the Director, Punjab Education Recruitment Board-cum-Director General School Education, Punjab-respondent No.2 and to consider her for appointment.

2. Briefly the facts are that the father of the petitioner belongs to Village Kaleke, Tehsil Baba Bakala Sahib, District Amritsar. The lineage has been certified by the Lambardar, copy whereof has been appended as Annexure P-13 with the replication, which has been filed. It has been stated that the father of the petitioner Amrik Singh has still land in the said village. Petitioner's father as well as the petitioner belong to the Scheduled Caste (Majhabi Sikh and Balmiki) Category. Father of the petitioner got Government service in the State of Rajasthan, where the petitioner was born. It is because of the job that the father of the petitioner had to shift to

Rajasthan but otherwise their roots were always in the State of Punjab and they continued to have relations back in Punjab. This is apparent from the fact that the petitioner was married to Bikramjit Singh, who also belongs to Scheduled Caste (Majhabi Sikh and Balmiki) Category. Petitioner after having got married, applied for Scheduled Castes Category certificate, which was issued to her by the competent authority on 03.12.2008 (Annexure P-7). In pursuance thereto, petitioner applied for the post of Lecturer in Political Science in the reserved category Scheduled Castes (Majhabi Sikh and Balmiki). Initial objection which was taken was that Scheduled Castes certificate, which has been issued, was in the name of her husband. Petitioner submitted her certificate, which has been issued to her from the State of Rajasthan, which has been issued in the name of her father. Thereafter the candidature of the petitioner has been withheld on the ground that she does not belong to the State of Punjab and, therefore, is not entitled to the benefit of reservation. It is thereafter that the petitioner has filed the present writ petition.

3. In the reply which has been filed by the respondents upon notice, the stand is that the State of origin of the petitioner is the State of Rajasthan and she had migrated to State of Punjab after her marriage and, therefore, as per the Punjab Government Policy Instructions dated 17.01.1996 (Annexure R-1), she is not entitled to the benefit of reservation. Reliance has also been placed upon the judgment of Hon'ble Supreme Court in ***Ranjana Kumari Versus State of Uttarakhand and others 2019 (1) S.C.T. 25.***

4. Reference is made to the report of the Tehsil Welfare Officer, Ludhiana, wherein it has come out ultimately that the father of the petitioner belongs to Village Kaleke, District Amritsar and belongs to the Scheduled Castes Category being Majhabi Sikh and Balmiki. It is in pursuance thereto that the counsel for the petitioner has asserted that the petitioner cannot be said to be migrated from the State of Rajasthan and, therefore, the judgment of the Supreme Court as well as the Instructions dated 17.01.1996 (Annexure R-1) would not be applicable to her.

5. Counsel for the State, on the other hand, has asserted that since the petitioner was born in Rajasthan and, therefore, her State of origin would be Rajasthan and she cannot be granted the benefit merely on the basis of a report of Tehsil Welfare Officer. Assertion has also been made that the rejection of the candidature of the petitioner is in accordance with law and do not call for any interference.

6. I have considered the submissions made by the counsel for the petitioner as also the counsel for the State.

7. Petitioner although was born in Rajasthan but the situation and the circumstances, which led to her being born in that State, was the Government job, which the father of the petitioner had obtained. The roots of the petitioner are traceable to the State of Punjab as it has come on record and as is established from the report of the Tehsil Welfare Officer, Ludhiana, that the father of the petitioner belongs to Village Kaleke, Block Tarsikka, Tehsil Baba Bakala, District Amritsar. Not only this, they own land there. That apart, the factum that the petitioner belongs to the Scheduled Castes

(Majhabi Sikh and Balmiki) Category, stands established from the report itself as also the certificates, which have been issued by the State of Rajasthan and Punjab, where again the category to which the petitioner belongs, stands substantiated. The petitioner, therefore, cannot be said to be originally belonging to Rajasthan, rather her origin has been traced down to the State of Punjab. That being so and she belonging to the category for which she had applied for, it cannot be said that she is not entitled to the benefit of the said category.

8. It may be added here that the petitioner's result has been withheld primarily on the ground that the Scheduled Castes Category certificate has been issued in the name of her husband and that the clarification from the Director, Welfare Department (Reservation Cell), Chandigarh-respondent No.4, was pending, which has come in favour of the petitioner as is apparent from the report of the Tehsil Welfare Officer, Ludhiana, which has been forwarded to the office of the Director, Scheduled Castes and Backward Classes, Welfare Department, Punjab, by the District Welfare Officer, Ludhiana, vide communication dated 15.11.2016 (Annexure P-16).

9. The judgment in the case of *Ranjana Kumari's case (supra)*, in the given facts and circumstances of the present case, would not be, therefore, applicable.

10. In view of the above, the non-consideration of the claim of the petitioner in the Scheduled Castes (Majhabi Sikh and Balmiki) Category, therefore, is not acceptable.

11. Direction is issued to respondent No.2 to consider her for appointment on the post of Lecturer in Political Science in the reserved category of Scheduled Castes (Majhabi Sikh and Balmiki) at an early date and declare her result within a period of two weeks.

12. In case petitioner makes the merit, appointment letter be issued to her and be also granted the consequential benefits (notional) from the date the candidate next lower in merit was granted the benefit.

13. The writ petition stands disposed of with above observations.

January 21st, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No