HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 12803/2020

Manisha Devi W/o Balbant Kumar D/o Rohtash, Aged About 39 Years, By Caste Saini (Saini), Resident Of Ward No. 23 Ganeshpura Bass, Bhadra Tehsil Bhadra, District Hanumangarh (Rajasthan).

----Petitioner

Versus

1. The State Of Rajasthan, Through Secretary, Department Of Social Justice, Government Of Rajasthan, Secretariat, Jaipur (Rajasthan).
2. The District Collector, Hanumangarh, (Rajasthan).
3. Sub Divisional Magistrate, Bhadra, District Hanumangarh, (Rajasthan).
4. Tehsildar Bhadra, District Hanumangarh.

----Respondents

For Petitioner(s) : Mr. Bhoop Singh Moond (through VC)
For Respondent(s) : Mr. Harshit Bhurani for
Mr. RD Choudhary (through VC)

HON'BLE MR. JUSTICE VIJAY BISHNOI

Order

14/12/2020

This writ petition has been filed by the petitioner being aggrieved with the action of the respondent No.3 - Sub Divisional Magistrate, Bhadra, District Hanumangarh and respondent No.4 - Tehsildar Bhadra, District Hanumangarh of not accepting her application for issuance of a caste certificate in her favour declaring that she is a member of OBC.

The case of the petitioner is that originally she was resident of village, Khushal ki Dhani, Tehsil Bhiwani in State

of Haryana, where her caste *Saini* is categorized as OBC. It is contended that petitioner got married to Mr. Balbant Kumar, resident of Ward No. 23 Ganeshpura Bass, Bhadra Tehsil Bhadra, District Hanumangarh. The husband of the petitioner is also a member of OBC in the State of Rajasthan. It is the case of the petitioner that when she applied before the Sub-Divisional Magistrate, Bhadra, District Hanumangarh for issuance of OBC certificate in her favour, her application was not accepted on the ground that she is not resident of State of Rajasthan and, therefore, the caste certificate declaring her a member of OBC cannot be issued.

Learned counsel for the petitioner has submitted that the action of the respondents of not accepting the application of the petitioner for issuing a certificate in her favour declaring her a member of OBC is illegal and contrary to the law laid down by this Court in various judgments.

Learned counsel for the petitioner has placed reliance on the decisions rendered by Division Bench of this Court at Jaipur Bench in ***State of Rajasthan Vs. Smt. Manju Yadav (D.B. Special Appeal (W) No.1116/2018)*** decided on 18.09.2018, by Single Judge at Jodhpur in ***Jaspal Kaur Vs. State of Rajasthan and Ors. (SB Civil Writ Petition No.1059/2020)*** decided on 28.01.2020 and by Single Judge at Jaipur Bench in ***Santosh Vs. State of Rajasthan & Ors. (SB Civil Writ Petition No.4713/2020)*** decided on 20.07.2020.

Learned counsel appearing for the respondents is not in a position to dispute the fact that the controversy involved in

this writ petition is squarely covered by the above referred decisions.

Division Bench of this Court in the case of ***State of Rajasthan Vs. Smt. Manju Yadav*** *(supra)* has held as under:-

> "**4.** Females outside the State of Rajasthan on migrating to Rajasthan, post marriage may not be entitled to the benefit of reservation in public employment in the State of Rajasthan on account of being a member of a SC or ST or OBC in another State.
>
> **5.** But these ladies would certainly be entitled to be issued a SC or ST or OBC certificate. For the reason, apart from reservation in public employment these certificates may be relevant for grant of some benefit. For example, it may be a housing scheme. A migrant lady may claim benefit on the strength of the certificate if the scheme envisages domicile or residence as the entitlement for a house or a flat with reservation provided.
>
> **6.** Under the circumstances, we find no infirmity in the directions issued by the learned Single Judge as to what procedure needs to be followed for grant of an OBC certificate applied for by a female who has migrated, post marriage, to the State of Rajasthan. We make it clear once again. Issue of public employment and benefit of reservation has been decided by the Supreme Court and thus our present order would not be misconstrued as enabling anybody to the benefit of reservation. The present order concerns only to the issuance of a certificate applied for."

This Court reiterated the above referred position of law in ***Jaspal Kaur*** *(supra)* and ***Santosh*** *(supra).*

So it is clear that the petitioner is not entitled for reservation in public employment in the State of Rajasthan being the resident of State of Haryana, however, she can get the other benefits as being an OBC on the strength of the certificate if the scheme envisages domicile or residence as entitlement.

In view of the above discussion, the writ petition is allowed. The respondent No.3 Sub Divisional Magistrate, Bhadra, District Hanumangarh is directed to issue only a caste certificate to the petitioner with clarification that this certificate is not for taking benefit in public employment in the State of Rajasthan, within a period of one week from the date of submission of certified copy of this order.

(VIJAY BISHNOI),J

6-Arun/-

RAJASTHAN HIGH COURT
सत्यमेव जयते