

Court No. 24
02.02.2022
(Item No. 4)
(AB)

W.P.A. 20855 of 2017
(via video conference)

Haripad Mahato
VS
The State of West Bengal & Ors.

Mr. Rudranil De
Mr. Abhisek Maity
..... for the petitioner
Mr. Sagnik Chatterjee
..... for the State
Mr. Ratul Biswas
... for the Board
Mr. Bhaskar Prasad Vaisya
Mr. Niloy Baran Mondal
..... For DPSC Purulia

The petitioner is aggrieved by the cancellation of his letter of appointment issued by the District Primary School Council, Purulia.

The ground for cancellation is that the petitioner produced the OBC certificate issued by another state (Jharkhand), but could not produce any reservation certificate in his favour issued in the State of West Bengal.

The primary contention of the petitioner is that the letter of appointment was issued in his favour on 5th February, 2017. The same was issued upon verification of all his testimonials and credentials. The petitioner submitted his Caste Certificate issued in the State of Jharkhand at the time of submission of all his testimonials. If the authority was not satisfied with the said Caste Certificate, then the letter of appointment ought not to have been issued in his favour.

The further contention of the petitioner is that the order of cancellation of appointment letter was issued without affording him an opportunity of hearing.

It has been submitted that though the hearing notice in connection with his caste certificate was issued in favour of the petitioner by a memo dated 7th June, 2017, the same was received by the petitioner on 15th June, 2017. The date of hearing was fixed on 13th June, 2017. Accordingly, the petitioner could not participate in the hearing which was held on 13th June, 2017.

The submission of the petitioner is that there has been violation of the principle of natural justice.

The petitioner submits that the caste in which he belongs is enlisted as the reserved category both in the States of Jharkhand and West Bengal. The family members of the petitioner who resides in West Bengal possess caste certificates issued in their favour in the State of West Bengal. The caste certificate of the petitioner which was issued in the State of Jharkhand ought to be treated as a valid certificate for giving appointment in the State of West Bengal.

The learned advocates appearing on behalf of the respondents oppose the prayer of the petitioner.

According to the provisions of law it is clear that for the purpose of obtaining benefit under a particular reserved caste, the certificate ought to be issued in the State where reservation is sought.

In the present case, the appointment was sought by the petitioner in the State of West Bengal by relying upon a certificate which was issued by the State of Jharkhand.

The Constitution Bench of the Hon'ble Supreme Court in the matter of Marri Chandra Shekhar Rao Vs. Dean, Seth GS Medical College & Ors. reported in (1990) 3 SCC 130 took up the issue as to whether one who is recognized as a Scheduled Tribe in the State of his origin and birth continues to have the benefits or privileges or rights in the State of migration or where he later goes.

The Court took into consideration various provisions of the Constitution of India and the decisions delivered by the Court in similar matters and was of the view that the candidate will not get the benefit of reservation in the migrant State relying upon a certificate issued by the State where he originally belonged to.

The same view was taken by another Constitution Bench of the Hon'ble Supreme Court in the matter of Action Committee on issue of Caste Certificates to Scheduled Castes and Scheduled Tribes in the State of Maharashtra & Ors. Vs. Union of India & Ors. reported in (1994) 5 SCC 244.

In M.C.D Vs. Veena & Ors. reported in (2001) 6 SCC 571 the Supreme Court was of the opinion that merely because a given caste is specified in one State as belonging to OBCs does not necessarily mean that if there be another group belonging to the same nomenclature in another State, a person belonging to that group is entitled to the rights,

privileges and benefits admissible to the members of that caste.

As the issue in question is no longer *res integra* and law has been settled that to avail the benefit of reservation a candidate is required to produce a reservation certificate issued by the State in which he seeks reservation and the certificate issued by a different State cannot be relied upon for obtaining the reservation benefit, accordingly, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)