

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

LPA-1160-2022 (O & M)
Date of Decision: 21.02.2023

Poornima

.....Appellant(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Balram Singh, Advocate,
for the appellant.

G.S.SANDHAWALIA, J. (Oral)

CM-2816-LPA-2022

Application for condonation of delay of 32 days in filing the appeal is allowed, in view of averments made in the application duly supported by affidavit.

Delay of 32 days in filing the appeal is condoned.

CM stands disposed of.

LPA-1160-2022 (O & M)

Consideration in the present Letters Patent Appeal filed by the appellant is to the order of the learned Single Judge dated 21.09.2022 passed in CWP No. 22489 of 2015. The learned Single Judge has dismissed the writ petition by coming to the conclusion that the order passed by the respondent-authorities in cancelling the Ad-Dharmi Scheduled Caste Certificate issued in favour of the writ petitioner was a fraudulent act since it was known to the petitioner at all times that she did not belonged to the Ad-Dharmi caste and instead belonged to Mahar caste. Reliance had been placed upon the

judgment of the Constitutional Bench in ***Bir Singh vs. Delhi Jal Board and***

others, AIR 2018 SC 4077 that the benefit of reservation is restricted to a particular State where such a caste is notified as Scheduled Caste and that a person cannot claim the same status in another State merely because he was declared as Scheduled Caste in another State. The learned Single Judge further distinguished the Single Bench judgment of this Court passed in **CWP No. 1159 of 2016 decided on 07.03.2018 titled as Smt. Reena Vs. State of Punjab and others** by holding that the said judgment was passed at an earlier point of time than the judgment passed by the Apex Court since in *Bir Singh's case (supra)*, the matter was decided on 30.08.2018.

It was also noticed that a fraud had been played upon the authorities and, therefore, technicalities would serve no real purpose while placing reliance upon Article 341 of the Constitution of India to come to the conclusion that the notification of the Scheduled Caste would apply in that State. The reservation of the seats in the Municipalities being provided under Article 243 T (Part IXA) of the Constitution of India, it was held that both the Articles have to be read together and any other interpretation given to the extent that it would only apply to matters of employment and admission would not be based on the correct reading of the judgment of the Apex Court or the provision itself. The principles of natural justice being violated as such was also repelled by relying upon the judgment of the Apex Court in **Kanwar Natwar Singh vs. Director of Enforcement and another, (2010) 13 SCC 255** on the ground that it should be shown that there was some real prejudice caused to the complainant and the requirement of natural justice would depend upon the facts and circumstances of the case and no real purpose would be served by directing the authorities to pass a fresh order and afford

an opportunity of hearing at this belated stage.

Counsel for the appellant has relied upon another judgment of the Constitutional Bench of Apex Court passed in ***Dr. K. Krishna Murthy and others vs. UOI and another, (2010) 7 SCC 202*** to contend that the said principle would only apply in terms of employment and education.

A perusal of the paper book would go on to show that the challenge as such was to the order dated 25.02.2015 wherein the Tehsildar, Phagwara, while replying upon the notification dated 17.01.1996, came to the conclusion that persons of Scheduled Caste who had migrated from other State cannot be given facility and benefits. Resultantly, it was noticed that the present appellant got a certificate dated 09.02.2015 (Annexure P-5) claiming to be an Ad-Dharmi on the basis of an Adhaar Card. An enquiry had been made and it was found out that she was a resident of Maharashtra State and after marriage, 5 years earlier, had come back to Plahi Gate, Phagwara and was originally belonging to a Scheduled Caste Community from Maharashtra State. It was found that the certificate was issued on the request of the appellant and there was no other document to show that she belongs to Ad-Dharmi caste. It was on that account that her certificate was cancelled.

It is not disputed and rather that it is the case of the writ petitioner herself that she was born in Gondia Town, District Bhandara, Maharashtra and belongs to Mahar Caste, which is Scheduled Caste category as per the Constitution (SC) Order, 1950 for the said State. Apparently, on account of her marriage with an Ad-dharmi caste person namely Harbhajan Lal, she had started residing at Phagwara and applied for Adhaar Card and

ration card etc. On account of the Municipal Corporation elections having been announced, she applied for the issuance of the Scheduled Caste certificate by claiming herself to be Ad-Dharmi caste person, though not born as one. Apparently, on the strength of her application, the said certificate was issued and at a subsequent point of time, it came to the notice of the State that it was on the basis of wrong facts as such and the impugned order was passed. The categorical stand of the State as such is that on the basis of the report of the Municipal Councillor and *Halqua Patwari*, the Tehsildar on the said basis, issued a certificate of Scheduled Caste and she never disclosed that she belongs to Maharashtra State. In the application, she had categorically stated that she belongs to Ad-Dharmi caste by birth and which wrongly endorsed by the then Municipal Councillor. It is, thus, apparently on a wrong representation that she had obtained the reserved caste certificate and which had been duly cancelled.

It is settled principle that once a person misrepresents in getting certain benefit, for withdrawal of the same, principles of natural justice are not required to be followed. Once there is fraud and misrepresentation and benefit has been obtained by wrongful declarations, the same goes to the root of the matter and the writ Court was rightly justified in dismissing the writ petition. Rather, the effort put in by the learned Single Judge to counter the argument as such were not even required at the hands of a person who had concealed true facts and obtained the certificate for which she was not even entitled to. Mere marriage would not make a person as such to claim that she belongs to an Ad-Dharmi caste for the State of Punjab.

Keeping in view the above, we are of the considered opinion that

the argument now raised by counsel for the appellant is without any basis and the present appeal is dismissed *in limine*.

(G.S. SANDHAWALIA)
JUDGE

21.02.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes