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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 17th December, 2024

+ W.P.(C) 9141/2023
DEEP MINOR THROUGH NEXT FRIENDPetitioner
Through: Mr. Raghavendra Mohan Bajaj and
Ms. Shagun Agarwal, Advocates.
versus

GOVT. OF NCT OF DELHIRespondent
Through: Mr. Prashant Manchanda, ASC with
Ms. Nancy Shah and Ms. Isha Baloni,
Advocates for GNCTD.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA
JUDGMENT

SANJEEV NARULA, J. (Oral):

CM APPL. 73840/2024 (seeking early hearing)

1. For the grounds and reasons stated in the application, the same is allowed.
2. With the consent of counsel for parties, the main writ petition is taken up on board for disposal today itself.
3. Disposed of.

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4. The Petitioner, a minor, has approached this Court through his mother seeking issuance of a Scheduled Caste certificate under the Constitution (Scheduled Castes) (Union Territories) Order, 1951.
5. According to the Petitioner, his parents got married on 18th May, 2005, and he was born on 7th October, 2006 (noted as 12th September, 2006 in the petition, a discrepancy attributed to clerical oversight). He has



produced a copy of his birth certificate for verification.

6. In 2009, the Petitioner's father abandoned the matrimonial home without explanation. He never returned to resume his family life. On 15th January, 2011, the father sought a divorce under Section 13(1)(a) of the Hindu Marriage Act, 1955, but eventually ceased to participate in those proceedings. This led to the petition being dismissed in default on 24th September, 2014. Thus, for over fifteen years, the mother alone has borne the responsibility of raising the Petitioner.

7. Moreover, the Petitioner's mother also registered an FIR bearing No. 95/2011 dated 24th March, 2011 against the father at Police Station Vijay Vihar under Sections 498A, 406 and 34 of the Indian Penal Code, 1860. The investigation with respect to the said proceedings is still ongoing.

8. The Petitioner states that despite several attempts to secure a caste certificate, the Respondent refused his applications on the ground that the request had to be initiated by the father, a condition impossible to meet in the circumstances.

9. In support of his claim, the Petitioner, however, places reliance on Circular No. 87/(155)/CCS/SOP/REV/HQ/2020/7378 dated 20th July, 2020, which provides for applications to be considered on behalf of separated/ divorced/ single women for issuance of caste certificate in favour of their children. The said circular was subsequently reiterated by another circular issued on 13th July, 2022 bearing No. 87(198)/DC/CCS/HQ/OBC/2020/1029-32, reinforcing the compliance of directions issued in the notice dated 20th July 2020. However, despite the said circulars, the Respondent has not acceded to the Petitioner's request for issuance of Caste Certificate based on the Scheduled Caste Certificate of his



mother.

10. On 03rd March, 2023, placing reliance on the aforementioned circulars, the Petitioner's mother applied and received her own caste certificate. However, subsequently, when she yet again requested for issuance of caste certificate in favour of the Petitioner, supporting the said request with her own caste certificate, the Respondent declined to accept the said request, on the ground that the application could be accepted on behalf of the mother only when she legally divorced or separated.

11. In light of the foregoing, finding no other resolution, the Petitioner has approached this Court for directions to the Respondent to process his request.

12. The Respondent, in their counter affidavit, have asserted that as per the 'Guidelines for Issuance of SC/ST Certificate' issued by the Revenue Department, GNCTD, the application must be accompanied by a Caste Certificate of any relative from the paternal side.

13. Further, while acknowledging the aforementioned circular dated 20th July, 2020, the Respondent argues that the Petitioner does not fulfil the criteria outlined therein. In this regard, they have urged that firstly, the Petitioner failed to demonstrate that he has suffered the deprivations, indignities, humiliations and handicaps experienced by other members of that community. They also emphasise that there is no decree of divorce or separation or death certificate of the Petitioner's father, in absence whereof, the caste certificate cannot be issued, as per the existing guidelines.

14. The Court, having weighed these arguments, notes that the Petitioner's mother has endured over fifteen years of abandonment. It has been demonstrated before the Court that the Petitioner's parents experienced



a strained marital relationship, which culminated in the father filing a petition for divorce and the mother registering an FIR. Clearly, the Petitioner's mother has been deserted by her husband for nearly fifteen years. During this prolonged period of separation, it is the Petitioner's mother who has taken the responsibility of raising the Petitioner.

15. In such circumstances, the Respondent's contention that the caste certificate cannot be issued due to the absence of a decree of divorce or separation, in the opinion of the Court, is untenable in law. The expression "separated/ divorced/ single women" cannot be construed narrowly to deprive the Petitioner of equitable relief. Such an interpretation would frustrate the very purpose of the circulars meant to accommodate children whose paternal ties are severed *de facto*, if not *de jure*. To insist on a judicial separation order or a divorce decree is to insist on form over substance, ignoring the lived truth of a deserted family unit. If the child of a separated woman is entitled to be treated as a member of the Scheduled Caste community, the Court finds no justification for limiting the definition of a "separated woman" to one who possesses a decree of judicial separation. Children should not be penalized because their father chose abandonment over legal finality. In cases where women from Scheduled Caste community have been separated on account of desertion or abandonment by their husbands, their children cannot be made to suffer simply because their fathers have failed to provide them support and recognition.

16. In light of the same, the Court is of the opinion that it would be a travesty of justice if the Petitioner were denied the benefit of the aforementioned circular merely on the ground that his mother does not have a decree of



divorce or separation from a court of law. Moreover, it must be noted that the Petitioner's mother has already been acknowledged as a member of the Scheduled Caste community and has been issued a certificate in her favour. Upholding the spirit of the circulars, which were framed to prevent children in precarious familial situations from losing their rightful entitlements, in the opinion of the Court, the objection raised by Respondent cannot sustain.

17. In view of the foregoing, the present petition is allowed with following directions:

- (i) The Petitioner shall submit a fresh representation enclosing therewith all the relevant documents to support the application, including the caste certificate of his mother, and also detailing the circumstances that entitle him to avail the benefit of the circulars dated 20th July, 2020 and 13th July 2022.
- (ii) Within two weeks of receiving this representation, the Respondent shall examine the Petitioner's case on its merits. In doing so, they shall not reject the application solely on the basis that the Petitioner's mother lacks a formal decree of divorce or judicial separation. Instead, they must consider the factual reality of a long-standing abandonment, which is tantamount, in every meaningful sense, to a separation.

18. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

DECEMBER 17, 2024

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