



2025:UHC:9991

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Single No. 462 of 2025

12 November, 2025

Smt. Anshu Sagar

... Petitioner

Versus

State Of Uttarakhand & others

... Respondents

With

WPSS No. 382 of 2025
WPSS No. 420 of 2025
WPSS No. 427 of 2025
WPSS No. 484 of 2025
WPSS No. 511 of 2025
WPSS No. 513 of 2025
WPSS No. 514 of 2025
WPSS No. 518 of 2025
WPSS No. 523 of 2025
WPSS No. 526 of 2025
WPSS No. 527 of 2025
WPSS No. 529 of 2025
WPSS No. 601 of 2025
WPSS No. 602 of 2025
WPSS No. 604 of 2025
WPSS No. 605 of 2025
WPSS No. 608 of 2025
WPSS No. 660 of 2025
WPSS No. 661 of 2025
WPSS No. 663 of 2025
WPSS No. 670 of 2025
WPSS No. 671 of 2025
WPSS No. 677 of 2025
WPSS No. 685 of 2025
WPSS No. 686 of 2025
WPSS No. 693 of 2025
WPSS No. 694 of 2025
WPSS No. 695 of 2025
WPSS No. 696 of 2025
WPSS No. 844 of 2025
WPSS No. 1452 of 2025

Presence:-

Mr. M.K. Ray & Ms. Neetu Singh, Advocates for the petitioners
Mr. N.S. Pundir, learned Deputy Advocate General with Mr.
Suyash Pant & Mr. Narayan Dutt, learned counsel for the State of
Uttarakhand.



Hon'ble Manoj Kumar Tiwari, J.

JUDGMENT

1. Petitioners claimed reservation available to members of Scheduled Castes, in a selection held for appointment as Teacher in Government Primary Schools. They were not given that benefit on the ground that they are member of a community, which is declared as Scheduled Caste for some other State and upon migration to Uttarakhand, they cannot get reservation in State Services of Uttarakhand.

2. Since common questions of fact and law are involved in these petitions, therefore, these petitions are clubbed together and decided by this common judgment. However, for the sake of brevity and convenience, facts of WPSS No. 462 of 2025 alone are being considered and discussed.

3. Petitioner in Writ Petition (S/S) No. 462 of 2025 was a permanent resident of District Moradabad in State of Uttar Pradesh before her marriage. She was born in a JATAV family, which is recognized as Scheduled Caste for State of Uttar Pradesh. Petitioner got married with a person, who is resident of Uttarakhand State and belongs to Scheduled Caste Community of Uttarakhand. Based on her marriage, Tehsildar Jaspur (Udham Singh Nagar) issued a Certificate, wherein she was declared as Scheduled Caste of Uttarakhand State. A Permanent Resident Certificate was also issued in her favour by Sub-



Divisional Magistrate, Jaspur. Since benefit of reservation was not given to her, therefore, she has approached this Court challenging the instructions issued by Secretary, Elementary Education, vide letter dated 28.10.2024.

4. Petitioner contends that she was member of Scheduled Caste Community even before her marriage and her caste status has not undergone any change due to marriage, therefore, denial of benefit of reservation to her is arbitrary and unjust. It is further contended that Competent Authority in State of Uttarakhand has recognized her as member of Scheduled Caste of State of Uttarakhand, therefore, there is no reason, whatsoever, for denying benefit of reservation to her.

5. The impugned letter dated 28.10.2024, issued by Secretary, Elementary Education is on record as Annexure 8 to the writ petition. Perusal thereof reveals that Director, Elementary Education sought guidance from the Secretary on the question, whether benefit of reservation can be given to such women candidates, who obtained Caste Certificate in State of Uttarakhand on the basis of their marriage with a permanent resident of Uttarakhand.

6. The Secretary, in his letter has referred to Government Order dated 10.10.2002, issued by Personnel Department in which, after referring to provisions contained in Sections 24 & 25 of the U.P. Reorganisation Act, 2000, providing for amendment of



(Scheduled Castes) and (Scheduled Tribes) Order, 1950 stated that persons belonging to other States will not be entitled to benefits available to Scheduled Caste/Scheduled Tribe in State Services. In para 4 of the said letter, Secretary directed that candidates, who managed to obtain Caste Certificate from State of Uttarakhand on the strength of their marriage with a resident of Uttarakhand, shall be dealt with as per the procedure laid down in Government Order dated 16.02.2004.

7. The U.P. State Reorganisation Act, 2000 identified sixty five Communities as Scheduled Castes of Uttarakhand and 5 Communities as Scheduled Tribes of Uttarakhand by amending the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribes) Order, 1950.

8. Petitioner contends that she was born in a family belonging to JATAV community which is identified as Scheduled Caste and her husband belongs to Scheduled Caste community of State of Uttarakhand, thus, it is not a case where petitioner is claiming reservation based on her marriage alone, consequentially, denial of benefit of reservation to petitioner is unjust. Learned counsel for the petitioner submits that the Competent Authority in State of Uttarakhand had issued Permanent Resident Certificate in favour of petitioner and Caste Certificate has also been issued to her in State of Uttarakhand, therefore, she cannot be denied the right to be considered for appointment against a reserved vacancy. He further



submits that “caste status” is determined by ‘birth’ and not by ‘marriage’ and here, petitioner belongs to Scheduled Caste by birth and her caste status is not altered because of her marriage.

9. A counter affidavit is filed by Mr. Premlal Bharti, District Education Officer (Elementary Education), Dehradun. Respondents have placed reliance upon a Government Order issued on 16.02.2004 in which it is mentioned in para 3 that benefit of reservation would be available only to the persons belonging to State of Uttarakhand, and residents of adjoining State, even if succeed in getting Caste Certificate from Uttarakhand, will not be entitled to reservation in public employment. In the counter affidavit, another Government Order dated 29.12.2008 is enclosed in which, after referring to the judgments rendered by Hon’ble Supreme Court in the case of *Marri Chandra Shekhar Rao vs. Dean, Seth G.S. Medical College & others, reported in (1990) 3 SCC 130* and *State of Maharashtra & another vs. Union of India & another, reported in (1994) 5 SCC 244*, it is provided that the benefit of reservation would be available to a person only in his Home State and not in some other State to which he/she migrates.

10. Learned State Counsel submits that a Division Bench of this Court in Writ Petition (S/B) No. 297 of 2007 (*Smt. Ranjana Kumari vs State of Uttaranchal & another*) dealt with identical question, as to whether a reserved category person, belonging to some other State, upon her marriage with a permanent



resident of Uttarakhand belonging to Scheduled Castes/Scheduled Tribes Community, would be entitled to benefit of reservation in State of Uttarakhand or not. Relevant extract of the said judgment are reproduced below:-

“7. Petitioner produced a caste certificate, showing that she is wife of a gentleman residing at Dehradun, and that, she belongs to Valmiki caste, which is a Scheduled Caste of the State. There is no dispute that the petitioner is daughter of a person who belongs to Valmiki caste. Accordingly, there is also no dispute that the petitioner belongs to Valmiki caste. The father of the petitioner is, however, a resident of the State of Punjab. In such view of the matter, petitioner is also a Scheduled Caste of the State of Punjab. Petitioner has migrated to the State of Uttarakhand after having had married a resident of this State.

8. It is being contended that since she is thus married and, accordingly, is permanently residing in this State and since Valmiki caste is also a Scheduled Caste for the State of Uttarakhand, she should be regarded as a Scheduled Caste of this State.

9. Learned counsel for the petitioner has relied upon a judgment of a Division Bench of this Court, rendered in the case of Jyoti Bala vs. State of Uttarakhand and another, reported in 2009 (1) U.D., 1, for the proposition that the petitioner is entitled to a caste certificate, showing that she belongs to Scheduled Caste of this State. The judgment, referred to above, deals with domicile certificate and addresses the issue, principally, on Sections 15 and 16 of the Indian Succession Act, 1925, proceeding on the basis that the said sections apply to Hindus. The fact remains that in terms of the provisions of the Indian Succession Act, 1925, the said sections do not apply to Hindus.

10. Be that as it may, the said judgment had and has no bearing in the matter of grant of a Scheduled Caste certificate. The right of a Scheduled Caste is created on the date he or she is born. Since that right is affixed with the birth of the person, the same is affixed with the State in which such right has accrued. Petitioner, therefore, as a member of Scheduled Caste community, acquired rights applicable to members of the Scheduled Caste community of the State of Punjab on and simultaneously with her birth in Punjab. The moment she migrated to the State of Uttarakhand, whether on being married or otherwise, she did not bring with her the right that she acquired in the State of Punjab. So far as the State of Uttarakhand is concerned, she never acquired any such right.

11. In the circumstances, there is no scope of



interference with the decision of the respondent – commission in cancelling the candidature of the petitioner for the post of District Information Officer, on the ground that she did not have the eligibility for the said post, as well as on the ground that she is not such a Scheduled Caste who is entitled to the benefits available to the Scheduled Castes of the State of Uttarakhand.”

11. Learned State Counsel submits that *Smt. Ranjana Kumari*, petitioner in Writ Petition (S/B) No. 297 of 2007, approached Hon’ble Supreme Court by filing Civil Appeal No. 8425 of 2013, and Hon’ble Supreme Court dismissed the said appeal by placing reliance upon Constitution Bench Judgment rendered in the case of *Marri Chandra Shekhar Rao vs, Dean, Seth G.S. Medical College, & others, reported in (1990) 3 SCC 130 and State of Maharashtra & another vs. Union of India & another, reported in (1994) 5 SCC 244*. Relevant para of the said judgment are extracted below:-

“2. The appellant who belongs to Valmiki caste (Scheduled Caste) of the State of Punjab married a person belonging to the Valmiki caste of Uttarakhand and migrated to that State. In the State of Uttarakhand under the Presidential Order ‘Valmiki’ is also recognized as a notified Scheduled Caste. The State of Uttarakhand issued a certificate to the appellant.

3. The appellant contended before the High Court that she was a Scheduled Caste of the State of Uttarakhand. The High Court having rejected the claim, the appellant is in appeal before us.

4. Two Constitution Bench judgments of this Court in *Marri Chandra Shekhar Rao vs. Dean, Seth G.S. Medical College & Ors.*¹ and *Action Committee on Issue of Caste Certificate to Scheduled Castes & Scheduled Tribes in the State of Maharashtra & Anr. vs. Union of India & Anr.* have taken the view that merely because in the migrant State the same caste is recognized as Scheduled Caste, the migrant cannot be recognized as Scheduled Caste of the migrant State. The issuance of a caste certificate by the State of Uttarakhand, as in the present case, cannot dilute the rigours of the Constitution Bench Judgments in *Marri Chandra Shekhar Rao (supra)* and *Action Committee (supra)*.



5. We, therefore, find no error in the order of the High Court to justify any interference. The appeal is accordingly dismissed.”

12. Learned State Counsel referred to another judgment rendered by Hon’ble Supreme Court in the case of *Pankaj Kumar vs. State of Jharkhand & others*, reported in (2021) 20 SCC 545. Para 36 to 40 of the said judgment are reproduced below:-

“36. The Constitution Bench of this Court in *Marri Chandra Shekhar Rao [Marri Chandra Shekhar Rao v. Seth G.S. Medical College, (1990) 3 SCC 130]* had an occasion to examine as to whether the person belonging to Scheduled Castes in relation to a particular State would be entitled to the benefits or concessions allowed to Scheduled Castes in the matter of education/employment in another State. Referring to various provisions of the Constitution and the grounds on which the Presidential Orders were issued and noticing earlier judgments, this Court held as under : (SCC pp. 138-39, para 9)

“9. It appears that Scheduled Castes and Scheduled Tribes in some States had to suffer the social disadvantages and did not have the facilities for development and growth. It is, therefore, necessary in order to make them equal in those areas where they have so suffered and are in the state of underdevelopment to have reservations or protection in their favour so that they can compete on equal terms with the more advantageous or developed sections of the community. Extreme social and economic backwardness arising out of traditional practices of untouchability is normally considered as criterion for including a community in the list of Scheduled Castes and Scheduled Tribes. The social conditions of a caste, however, varies from State to State and it will not be proper to generalise any caste or any tribe as a Scheduled Tribe or Scheduled Caste for the whole country. This, however, is a different problem whether a member of the Scheduled Caste in one part of the country who migrates to another State or any other Union territory should continue to be treated as a Scheduled Caste or Scheduled Tribe in which he has migrated. That question has to be judged taking into consideration the interest and well-being of the Scheduled Castes and Scheduled Tribes in the country as a whole.”

(emphasis supplied)

37. This Court, while rejecting the contention that the member of the Scheduled Castes/Scheduled Tribes should get the benefit for the purpose of Constitution throughout the territory of India, observed that if such contention is to be



accepted, the very expression “in relation to State” would lose its significance. Marri Chandra Shekhar Rao [Marri Chandra Shekhar Rao v. Seth G.S. Medical College, (1990) 3 SCC 130] was further followed by another Constitution Bench of this Court in Action Committee on Issue of Caste Certificate to SCs/STs in State of Maharashtra [Action Committee on Issue of Caste Certificate to SCs/STs in State of Maharashtra v. Union of India, (1994) 5 SCC 244] which further came to be followed by another Constitution Bench of this Court in Bir Singh [Bir Singh v. Delhi Jal Board, (2018) 10 SCC 312 : (2019) 1 SCC (L&S) 1] wherein in para 34, it was held as under : (Bir Singh case [Bir Singh v. Delhi Jal Board, (2018) 10 SCC 312 : (2019) 1 SCC (L&S) 1] , SCC pp. 344-45)

“34. Unhesitatingly, therefore, it can be said that a person belonging to a Scheduled Caste in one State cannot be deemed to be a Scheduled Caste person in relation to any other State to which he migrates for the purpose of employment or education. The expressions “in relation to that State or Union Territory” and “for the purpose of this Constitution” used in Articles 341 and 342 of the Constitution of India would mean that the benefits of reservation provided for by the Constitution would stand confined to the geographical territories of a State/Union Territory in respect of which the lists of Scheduled Castes/Scheduled Tribes have been notified by the Presidential Orders issued from time to time. A person notified as a Scheduled Caste in State ‘A’ cannot claim the same status in another State on the basis that he is declared as a Scheduled Caste in State ‘A’.”

38. So far as involuntary migration from one State to another State is concerned, the Constitution Bench of this Court in Marri Chandra Shekhar Rao [Marri Chandra Shekhar Rao v. Seth G.S. Medical College, (1990) 3 SCC 130] taking note of the fate of those castes/tribes seeking protection of being classed as Scheduled Castes or Scheduled Tribes in the State of their origin when, because of transfer or movement of their father or guardian's business or service, they move to another State having considered the fate of their migration from one State to another State being involuntary, by force or circumstances either of employment or of profession, left it for the legislature or Parliament to consider it for appropriate legislation bearing that aspect in mind that their rights and privileges as members of Scheduled Castes/Scheduled Tribes be well protected by virtue of provisions of Articles 341(1) and 342(1) of the Constitution and observed in para 23 as under : (SCC p. 147)

“23. Having construed the provisions of Articles 341 and 342 of the Constitution in the manner we have done, the next question that falls for consideration, is, the question of the fate of those Scheduled Caste and Scheduled Tribe students who get the protection of being classed as Scheduled Caste or Scheduled Tribe in the



States of origin when, because of transfer or movement of their father or guardian's business or service, they move to other States as a matter of voluntary (sic involuntary) transfer, will they be entitled to some sort of protective treatment so that they may continue or pursue their education. Having considered the facts and circumstances of such situation, it appears to us that where the migration from one State to another is involuntary, by force of circumstances either of employment or of profession, in such cases if students or persons apply in the migrated State where without affecting prejudicially the rights of the Scheduled Castes or Scheduled Tribes in those States or areas, any facility or protection for continuance of study or admission can be given to one who has or migrated then some consideration is desirable to be made on that ground. It would, therefore, be necessary and perhaps desirable for the legislatures or Parliament to consider appropriate legislations bearing this aspect in mind so that proper effect is given to the rights given to Scheduled Castes and Scheduled Tribes by virtue of the provisions under Articles 341 and 342 of the Constitution. This is a matter which the State legislatures or Parliament may appropriately take into consideration."

(emphasis supplied)

39. In relation to Backward Classes, this Court in *MCD v. Veena* [*MCD v. Veena*, (2001) 6 SCC 571 : 2001 SCC (L&S) 992] has specifically held that migrants are not entitled for reservation as Other Backward Classes (OBCs) in the States/Union Territories where they have migrated. The relevant portion of the judgment that may be noticed is as hereunder : (SCC p. 574, para 6)

"6. Castes or groups are specified in relation to a given State or Union Territory, which obviously means that such caste would include caste belonging to an OBC group in relation to that State or Union Territory for which it is specified. The matters that are to be taken into consideration for specifying a particular caste in a particular group belonging to OBCs would depend on the nature and extent of disadvantages and social hardships suffered by that caste or group in that State. However, it may not be so in another State to which a person belonging thereto goes by migration. It may also be that a caste belonging to the same nomenclature is specified in two States but the considerations on the basis of which they had been specified may be totally different. So the degree of disadvantages of various elements which constitute the data for specification may also be entirely different. Thus, 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



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benefits admissible to the members of that caste. These aspects have to be borne in mind in interpreting the provisions of the Constitution with reference to application of reservation to OBCs.”

(emphasis supplied)

40. By the judgments of the Constitution Bench of which the reference has been made (*supra*), it has been settled that the person belonging to Scheduled Castes/Scheduled Tribes/OBC of the State, on migration to another State voluntarily or involuntarily, will not be entitled to claim benefits of reservation including privileges and benefits admissible to the member of the Scheduled Castes/Scheduled Tribes/OBC even though, the caste or tribe of the same nomenclature is notified in the latter State (State where migrated) and if that is being permitted, the very expression as mandated under Articles 341(1) and 342(1) of the Constitution in “relation to the State” would become otiose and this issue remain no more *res integra* after the pronouncements made by the Constitution Bench of this Court.”

13. Hon’ble Supreme Court in a recent judgment rendered in the case of *Chandigarh Housing Board vs. Tarsem Lal*, reported in (2025) 5 SCC 503, after discussing the entire law on the point, summarized the position, as follows:-

“29.1. The Presidential Notification of a tribe or tribal community as a Scheduled Tribe by the President of India under Article 342 is a *sine qua non* for extending any benefits to the said community in any State or UT.

29.2. This implies that a person belonging to a group that is recognised as a Scheduled Tribe in a State would be recognised a Scheduled Tribe only within the said State and not in a UT where he migrates if no such Presidential Notification exists in the said UT.”

14. From perusal of the judgments referred to above, it is apparent that benefit of reservation can be availed of by a person only in the State to which he/she originally belonged and upon migration to some other State, for whatever reason, one would not be entitled to reservation in State Services of State to which he/she migrates. This view is supported by the



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judgment dated 29.08.2011 rendered by Division Bench of this Court in WPSB No. 297 of 2007, which was affirmed by Hon'ble Supreme Court in Civil Appeal No. 8425 of 2013, vide judgment dated 02.11.2018.

15. Thus, the relief, as claimed by petitioners, cannot be granted. Accordingly, the writ petitions fail and are dismissed. This Court appreciates the valuable assistance rendered by Mr. Narayan Dutt, learned State Counsel.

MANOJ KUMAR TIWARI, J.

12.11.2025

Aswal

NITU RAJ
SINGH
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