# HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE THE ACTING CHIEF JUSTICE SHRI MANOJ KUMAR TIWARI**
**AND**
**HON'BLE SHRI JUSTICE SUBHASH UPADHYAY**

**02 NOVEMBER, 2026**

**SPECIAL APPEAL NO. 303 OF 2023**

State of Uttarakhand and others --Appellants

**Versus**

Upma Bharti --Respondent

**With**

**SPECIAL APPEAL NO. 298 OF 2023**

**SPECIAL APPEAL NO. 302 OF 2023**

**SPECIAL APPEAL NO. 305 OF 2023**

**SPECIAL APPEAL NO. 300 OF 2023**

**SPECIAL APPEAL NO. 306 OF 2023**

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| Counsel for the appellant | : | Mr. Adtiya Singh, learned counsel for the State of Uttarakhand/appellants. |
| Counsel for respondents | : | Mr. Shivanand Bhatt and Mr. B.M. Pingal, learned counsel. |

**JUDGMENT : (per Shri Manoj Kumar Tiwari, A.C.J.)**

**Delay Condonation Applications (IA/1/2023)**

Reasons furnished in Delay Condonation Applications are sufficient to condone the delay in filing these Special Appeals. Accordingly, Delay Condonation Application are allowed and the delay in filing the Special Appeals is condoned.

2. Since common questions of law and fact are involved in these intra court appeals, therefore, they are clubbed together and are being heard & decided by a common judgment. However, for the sake of brevity,

facts of Special Appeal No. 303 of 2023 alone are being considered and discussed.

3. Respondent (Km. Upma Bharti) applied for caste certificate by contending that she belongs to *Jatav* community, which is recognized as Scheduled Caste in State of Uttarakhand. Her application was rejected on the ground that evidence in support of her claim as per Government Order, is not enclosed. Thus, feeling aggrieved, she filed Writ Petition (M/S) No. 3710 of 2018, challenging the rejection order. She also sought a direction to the competent authority to issue caste certificate in her favour.

4. Her writ petition was allowed by learned Singh Judge, vide judgment dated 11.03.2019, which is under challenge in this appeal. Relevant extract of that judgment is reproduced below:-

> *"The petitioner is aggrieved by the action of non grant of castes certificate. Because, according to the contention of the petitioner since she being a scheduled castes, she was entitled for the caste certificate in the light of the said Government Order and, particularly, stress has been made by the petitioner to Sub-clause (vii) of Clause 4 of the Government Order dated 2nd April, 2013. Sub-clause (vii) of Clause 4 reads as under :-*
>
> > *(vii) जाति प्रमाण–पत्र निर्गत करने की दृष्टि से स्थायी निवास (Permanent Resident) ही प्रासंगिक है। निवास के सम्बन्ध में अन्य शब्दों जैसे निवास करता है (Resides), निवास (Residence), सामान्यतया निवास करता है (Ordinarily Resides), सदभावी निवास (Domicile) तथा मूल निवासी (Original Resident) को विचार और उपयोग में नहीं लिया जायेः*
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> *It is not in dispute that the castes to which the petitioner belongs, i.e. Jatav, is a castes which is notified as Scheduled Castes in the State of Uttarakhand.*
>
> *There is no doubt that permanent resident certificate has already been issued in favour of the petitioner. The criteria for the grant of castes certificate is contemplated under Sub-clause (vii) of Clause 4, which provides basic foundation for the purpose of issuance of caste certificates would be based upon the permanent resident certificate, which has been issued by the State Government in favour of the petitioner.*

> *There is no doubt that in the instant case, the petitioner is the holder of permanent resident certificates as per law. In that eventuality, this Court is of the view that once the State, in pursuance to the Government Order dated 2nd April, 2013, has recognized the petitioner as to be the permanent resident as per Clause (ii) to (vi), then in view of Subclause (vii) of Clause 4, they were equally bound to comply the condition contained under Sub-clause (vii) of Clause 4 for the grant of castes certificate, the basis of which, as per the Government Order dated 02.04.2013 happens to be the permanent resident certificate granted under the said Government Order applicable in the State.*
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> *In view of the above, a writ of certiorari is issued and the impugned order dated 29.09.2018, passed by respondent No. 3 rejecting the application of the petitioner for the grant of caste certificate is quashed and a writ of mandamus is issued to the respondent No. 3 to issue castes certificate in the light of the provisions contained under the Government Order dated 2nd April, 2013, within a period of two months from the date of receipt of certified copy of the order*
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> *Subject to the above observations, the writ petition stands allowed."*

5. In connected appeals, similar writ petitions filed by other persons were disposed of in terms of the judgment rendered in Writ Petition (M/S) No. 3710 of 2018. Interpretation of Government Order dated 02.04.2013 is involved in all the appeals, therefore, they are decided together.

6. Learned Single Judge relied upon clause 4 of the Government Order dated 02.04.2013 for allowing the writ petition. The condition, which one is required to meet for issuance of permanent resident certificate, are enumerated in paragraph no. 4 of the said Government Order and in clause (vii) of paragraph no. 4, it is provided that permanent residence of a person alone would be relevant for issuing caste certificate to a person. In paragraph no. 7 of the said Government Order, however, it is mentioned that a person applying for caste certificate will be required to submit an affidavit stating that neither he nor any member of his

family has obtained caste certificate from other State nor will they obtain such certificate from other State. Such person is also required to state on oath that neither he nor any member of his family is getting benefit available to a reserved category person in any other State.

7. Learned counsel for appellants submits that learned Single Judge allowed the writ petition by relying on clause (vii) of paragraph no. 4 of Government Order dated 02.04.2013, which merely provides that while issuing caste certificate, permanent residence of the person alone would be relevant. He submits that clause (vii) of paragraph no. 4 was misread by learned Single Judge, as laying down the thumb rule that issuance of permanent resident certificate will automatically result in issuance of caste certificate, while as per the Government Order, one has to meet other conditions before caste certificate can be issued in his/her favour.

8. We find substance in the contention raised on behalf of the appellant. Paragraph no. 4 of Government Order dated 02.04.2013 deals with permanent residence status in Uttarakhand and lays down the conditions, which are to be met for issuance of permanent resident certificate. Clause (vii) of paragraph no. 4 merely provides that permanent resident status of a person has to be seen before issuing caste certificate in his favour.

9. Learned Single Judge has misread clause (vii) for holding that whosoever holds a permanent resident certificate, issued by competent authority in State of Uttarakhand, can be issued a caste certificate, if he belongs to a caste/community, which is identified as SC/ST/OBC in the State.

10. A careful perusal of Government Order dated 02.04.2013 reveals that possession of permanent resident certificate is one of the pre-requisite for issuance of caste certificate in the State, however, mere possession of permanent resident certificate will not entitle a person to caste certificate, as was held by learned Single Judge. A person has to meet other conditions of eligibility, as mentioned in Government Order dated 02.04.2013 and has also to submit affidavit stating that neither he nor any member of his family has obtained caste certificate from other State nor will they apply for caste certificate in some other State in future and further that neither the person applying for caste certificate nor any other member of his family has received any benefit available to SC/ST/OBC in some other State.

11. The Government Order dated 02.04.2013 has to be read as a composite-whole and paragraph no. 7 thereof could not have been overlooked while dealing with paragraph no. 4 and its different clauses. In the impugned judgment, however, paragraph no. 7 of the Government Order has been completely overlooked while holding that anyone with permanent resident

certificate is entitled for caste certificate, if he belongs to a caste/community, which is recognized as SC/ST/OBC in State of Uttarakhand.

12. As discussed above, learned Single Judge has considered clause (vii) of paragraph no. 4 of Government Order dated 02.04.2013 for allowing the writ petition and has ignored paragraph no. 7 of the said Government Order, therefore, the impugned judgment dated 11.03.2019 is interferable.

13. Accordingly, the Special Appeals are allowed and the impugned judgment is set-aside. Respondents, however, shall be at liberty to apply for caste certificate, afresh, in terms of Government Order dated 02.04.2013 and their applications, if submitted along with affidavit in terms of Government Order dated 02.04.2013, shall be considered as per law, within four months.

14. Pending Applications, if any, stand disposed of.

**MANOJ KUMAR TIWARI, A.C.J.**

**SUBHASH UPADHYAY, J.**

Dt: 2nd November, 2026
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