

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

Writ Petition (M/S) No. 1443 of 2014

Vaseem Ahmed

.....Petitioner

Versus

State of Uttarakhand and othersRespondents

Present:

Mr. Arvind Vashisth, Advocate for the petitioner.

Mr. A.K. Joshi, Additional Chief Standing Counsel for the State/respondents.

Hon'ble Alok Singh, J (Oral).

Petitioner was born in the year 1986 in District Moradabad and after shifting to the District Udham Singh Nagar, the petitioner joined primary school on 17.9.1993 and passed 5th standard in the year 1996 from the primary school situated in district Udham Singh Nagar, as revealed from Annexure No. 1 to the writ petition. Thereafter, the petitioner joined Jawahar Navodaya Vidyalaya, Rudrapur, Udham Singh Nagar and passed Senior Secondary examination as student of Jawahar Navodaya Vidyalaya in the year 2003, as revealed from Annexure Nos. 2 & 3 to the writ petition. The petitioner, thereafter, joined SGRR Institute of Medical & Health Sciences, Dehradun and did his MBBS course in the year 2012, as revealed from Annexure No. 6 to the writ petition.

The petitioner is claiming himself to be of Other Backward Class (Muslim Dhunkar/Dhunia). The petitioner applied for the OBC certificate, which was denied to the petitioner saying that the petitioner was not a permanent resident of State of Uttarakhand.

Undisputedly, the petitioner did his entire studies right from class I to MBBS from the State of Uttarakhand.

Copy of the Government Order dated 2.4.2013 is handed over by Mr. A.K. Joshi, learned Additional Chief Standing Counsel, which is taken on record.

Government Order dated 2.4.2013 provides that caste certificate shall be issued in favour of those residents of undivided State of Uttar Pradesh, who are permanent residents of any part of Uttarakhand State as on 9.11.2000.

Mr. A.K. Joshi, learned Additional Chief Standing Counsel, vehemently argued that caste certificate can be issued only in favour of those, who were residing for last more than 15 years as on 9.11.2000.

Under clause (4) Government Order dated 2.4.2013, definition of “permanent resident” is given. According to the definition of “permanent resident”, those persons shall also be deemed permanent residents of the State, who are residing in the territory of the State of Uttarakhand for last more than 15 years. As per sub-clause (vii) of clause (4) of the Government Order dated 2.4.2013, to issue caste certificate, ordinary resident and domiciles shall only be relevant. Since, the petitioner is residing in the State of Uttarakhand for last more than 15 years, therefore, there is no legal bar to issue the caste certificate in favour of the petitioner, if he belongs to such caste which is notified as OBC.

In view of the above, impugned order does not sustain in the eyes of law.

Mr. Arvind Vashisth, learned counsel appearing for the petitioner, at this stage, submits that the petitioner was shortlisted for P.G. Course under the OBC category, however, in view of non-issuance of the caste certificate, the petitioner may not be considered under the OBC category in the counselling scheduled to be held on 9.7.2014.

Writ petition thus stands disposed of with the direction to the respondents to consider the case of the petitioner afresh for issuance of the caste certificate and if the petitioner is found belonging to OBC, caste certificate shall be issued to the petitioner within 15 days from today. It is further provided that candidature of the petitioner shall be considered provisionally in the counselling scheduled to be held on 9.7.2014 for P.G. Medical course, subject to the filing of the caste certificate by the petitioner within next 15 days.

No order as to costs.

CLMA No. 6435 of 2014 also stands disposed of accordingly.

(Alok Singh, J.)
30.6.2014

Avneet