

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Writ Petition (S/S) No. 1146 of 2014

Km. Jyoti Yadav

... Petitioner

Vs

State of Uttarakhand & others

... Respondents

Mr. Tapan Singh, Advocate, present for the petitioner.

Mr. N.P. Sah, Standing Counsel present for the State of Uttarakhand.

Hon'ble Sudhanshu Dhulia, J. (Oral)

1. The petitioner was a candidate for the post of Assistant Teacher in Government Primary School. He belongs to Other Backward Classes (*in short "OBC"*) known as "Ahir". However, at the relevant time, he was not given regular appointment on the ground that the OBC certificate, which he has produced before the Authority concerned, was only for the purpose of Education. However, later on another OBC certificate was issued by the competent authority, which the petitioner has submitted to the authority concerned. Moreover, "OBC Certificate" is a certificate only and the concerned authority has absolutely no business to specify that such a certificate is only for education and for employment or for any other purposes. This mistake on the part of the issuing authority has caused inordinate delay in the matter and also unnecessary hardship to the petitioner.

2. Though now the petitioner has submitted his OBC certificate to the authority concerned, yet he has not been given appointment and the reliance has been taken by the Education Authority on a decision of the Division Bench of this Court in ***Triveni Chandra Pandey Vs State of Uttarakhand & others*** (in SPA No. 360 of 2012 decided on 26.11.2013).

3. This contention of the State Government is totally wrong. This Court in *Triveni Chandra Pandey* only held that the fixing the criteria of a “Residence” is violative of Articles 14 and 16(2) of the Constitution of India. But in the same judgment this Court has said that undue hardship would be caused to the candidates, who have been selected, therefore, the order was made prospective and will apply to the future selection and appointment, whereas the present selection proceeds prior to the delivery of the said judgment. Consequently, *Triveni Chandra Pandey* is not applicable in the present case.

4. Accordingly, the writ petition is disposed of with a direction to respondent No. 2 – Director, Primary Education Uttarakhand, Dehradun that he shall consider the candidature of the petitioner, in accordance with law, and give him appointment, unless there is any other ineligibility of the petitioner, within a period of eight weeks from the date of production of a certified copy of this order.

(Sudhanshu Dhulia, J.)

26.09.2014

Aswal