

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 3050 of 2019

Rina Kumari Rana @ Reena Kumari Rana Petitioner

Versus

1. The State of Jharkhand
 2. The Deputy Commissioner, Godda
 3. The Sub-Divisional Officer, Godda
 4. Jharkhand Staff Selection Commission, through its Chairman, Ranchi
 5. The Secretary, Jharkhand Staff Selection Commission, Ranchi
 6. The Examination Controller, Jharkhand Staff Selection Commission, Ranchi
- Respondents

CORAM

HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner:	Mr. Abhishek Srivastava
For the State:	Ms. Sweta Shukla, A.C to A.A.G-II
For the JSSC:	Mr. Sanjay Piprawall

07/13.12.2023 The present writ petition has been filed for declaring the petitioner to have passed in the Combined Graduate Trained Teacher Competitive Examination, 2016 for appointment on the post of Teacher (Hindi) as after being declared successful in the 'Main' examination, she was called for certificate verification, however, her candidature in the Scheduled Tribe (S.T) category was rejected on the ground that she had submitted the caste certificate of S.T on the basis of her husband. Further prayer has been made for quashing the remarks mentioned against the name of the petitioner in notice No. 3519 dated 28.05.2019 (Annexure-7 to the writ petition) wherein it has been mentioned that she failed to submit the caste certificate and hence her candidature would be restricted up to the vacancy of unreserved category. The petitioner has also prayed for directing the respondent Nos. 4 to 6 to send her name to the respondent No.2 for counselling being successful candidate in the S.T category.

2. Learned counsel for the petitioner submits that the state of origin of the petitioner is State of Bihar and she belongs to 'Lohara' caste. The petitioner solemnized marriage with a person, who is the resident of State of Jharkhand and also belongs to the same caste. After marriage, the petitioner applied for issuance of caste certificate of Scheduled Tribe (S.T) and local resident

certificate before the competent authority of State of Jharkhand giving details of her husband in pursuance of which the Sub-Divisional Officer, Godda issued residential certificate as well as caste certificate to her on 05.05.2016.

3. It is further submitted that in the year 2016, the Jharkhand Staff Selection Commission (JSSC) issued advertisement for the Combined Graduate Trained Teacher Competitive Examination, 2016 in which the petitioner applied for 'Hindi' Teacher in Godda district under S.T category. The petitioner passed the said examination and thereafter was called for document verification whereupon she appeared and produced all the required certificates. However, a show cause notice dated 19.09.2018 was issued to her on the ground that she had submitted caste certificate of S.T category on the basis of genealogical table of her husband. Thereafter, the petitioner submitted a fresh caste certificate issued by the Sub-Divisional Officer, Jamui (Bihar) dated 20.09.2018 on the basis of her parents' details, however, a notice No. 3519 dated 28.05.2019 was issued by the office of the Jharkhand Staff Selection Commission in which it was mentioned that the petitioner failed to submit valid caste certificate and therefore her candidature would be restricted to the vacancy of unreserved category. It is also submitted that the Deputy Commissioner, Godda has already started counselling of the candidates whose names appear in the final list, however, the name of the petitioner has not been sent for counselling.

4. Learned counsel for the respondent-JSSC submits that the issue raised in the present writ petition is no more *res integra* as in the case of **Marri Chandra Shekhar Rao Vs. Dean, Seth G.S. Medical College & Others** reported in **(1990) 3 SCC 130**, the Constitution Bench of the Hon'ble Supreme Court has held as under:-

"13. It is trite knowledge that the statutory and constitutional provisions should be interpreted broadly and harmoniously. It is trite saying that where there is conflict between two provisions, these should be so interpreted as to give effect to both. Nothing is surplus in a Constitution and no part should be made nugatory. This is well settled. See the observations of

this Court in Venkataramana Devaru v. State of Mysore [1958 SCR 895, 918] , where Venkatarama Aiyer, J. reiterated that the rule of construction is well settled and where there are in an enactment two provisions which cannot be reconciled with each other, these should be so interpreted that, if possible, effect could be given to both. It, however, appears to us that the expression 'for the purposes of this Constitution' in Article 341 as well as in Article 342 do imply that the Scheduled Caste and the Scheduled Tribes so specified would be entitled to enjoy all the constitutional rights that are enjoyable by all the citizens as such. Constitutional right, e.g., it has been argued that right to migration or right to move from one part to another is a right given to all — to Scheduled Castes or Tribes and to non-scheduled castes or tribes. But when a Scheduled Caste or Tribe migrates, there is no inhibition in migrating but when he migrates, he does not and cannot carry any special rights or privileges attributed to him or granted to him in the original State specified for that State or area or part thereof. If that right is not given in the migrated State it does not interfere with his constitutional right of equality or of migration or of carrying on his trade, business or profession. Neither Article 14, 16, 19 nor Article 21 is denuded by migration but he must enjoy those rights in accordance with the law if they are otherwise followed in the place where he migrates. There should be harmonious construction, harmonious in the sense that both parts or all parts of a constitutional provision should be so read that one part does not become nugatory to the other or denuded to the other but all parts must be read in the context in which these are used. It was contended that the only way in which the fundamental rights of the petitioner under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) could be given effect to is by construing Article 342 in a manner by which a member of a Scheduled Tribe gets the benefit of that status for the purposes of the Constitution throughout the territory of India. It was submitted that the words "for the purposes of this Constitution" must be given full effect. There is no dispute about that. The words "for the purposes of this Constitution" must mean that a Scheduled Caste so designated must have right under Articles 14, 19(1)(d), 19(1)(e) and 19(1)(f) inasmuch as these are applicable to him in his area where he migrates or where he goes. The expression "in relation to that State" would become nugatory if in all States the special privileges or the rights granted to Scheduled Castes or Scheduled Tribes are carried forward. It will also be inconsistent with the whole purpose of the scheme of reservation. In Andhra Pradesh, a Scheduled Caste or a Scheduled Tribe may require protection because a

boy or a child who grows in that area is inhibited or is at disadvantage. In Maharashtra that caste or that tribe may not be so inhibited but other castes or tribes might be. If a boy or a child goes to that atmosphere of Maharashtra as a young boy or a child and goes in a completely different atmosphere or Maharashtra where this inhibition or this disadvantage is not there, then he cannot be said to have that reservation which will denude the children or the people of Maharashtra belonging to any segment of that State who may still require that protection. After all, it has to be borne in mind that the protection is necessary for the disadvantaged castes or tribes of Maharashtra as well as disadvantaged castes or tribes of Andhra Pradesh. Thus, balancing must be done as between those who need protection and those who need no protection, i.e., who belong to advantaged castes or tribes and who do not. Treating the determination under Articles 341 and 342 of the Constitution to be valid for all over the country would be in negation to the very purpose and scheme and language of Article 341 read with Article 15(4) of the Constitution.”

5. In the case of **Action Committee on Issue of Caste Certificate to SCs/STs in the State of Maharashtra & Another Vs. Union of India & Another** reported in **(1994) 5 SCC 244**, the Constitution Bench of the Hon’ble Supreme Court has further held as under:-

“16. We may add that considerations for specifying a particular caste or tribe or class for inclusion in the list of Scheduled Castes/Schedule Tribes or backward classes in a given State would depend on the nature and extent of disadvantages and social hardships suffered by that caste, tribe or class in that State which may be totally non est in another State to which persons belonging thereto may migrate. Coincidentally it may be that a caste or tribe bearing the same nomenclature is specified in two States but the considerations on the basis of which they have been specified may be totally different. So also the degree of disadvantages of various elements which constitute the input for specification may also be totally different. Therefore, merely because a given caste is specified in State A as a Scheduled Caste does not necessarily mean that if there be another caste bearing the same nomenclature in another State the person belonging to the former would be entitled to the rights, privileges and benefits admissible to a member of the Scheduled Caste of the latter State “for the purposes of this Constitution”. This is an aspect which has to be kept in mind and which was very much in the minds of the Constitution-

makers as is evident from the choice of language of Articles 341 and 342 of the Constitution. That is why in answer to a question by Mr Jaipal Singh, Dr Ambedkar answered as under:

“He asked me another question and it was this. Supposing a member of a Scheduled Tribe living in a tribal area migrates to another part of the territory of India, which is outside both the scheduled area and the tribal area, will he be able to claim from the local Government, within whose jurisdiction he may be residing the same privileges which he would be entitled to when he is residing within the scheduled area or within the tribal area? It is a difficult question for me to answer. If that matter is agitated in quarters where a decision on a matter like this would lie, we would certainly be able to give some answer to the question in the form of some clause in this Constitution. But so far as the present Constitution stands, a member of a Scheduled Tribe going outside the scheduled area or tribal area would certainly not be entitled to carry with him the privileges that he is entitled to when he is residing in a scheduled area or a tribal area. So far as I can see, it will be practicably impossible to enforce the provisions that apply to tribal areas or scheduled areas, in areas other than those which are covered by them....”

Relying on this statement the Constitution Bench ruled that the petitioner was not entitled to admission to the medical college on the basis that he belonged to a Scheduled Tribe in the State of his origin.”

6. Relying on the aforesaid Constitution Bench judgments, the Hon'ble Supreme Court in the case of **Ranjana Kumari Vs. State of Uttarakhand & Ors.**, reported in **(2019) 15 SCC 664**, has reiterated that merely because in the migrant State, the same caste is recognized as 'Scheduled Caste', the migrant cannot be treated as a member of 'Scheduled Caste' of the migrant State. The relevant part of the said judgment is quoted hereunder:-

“9. It would thus be evident that in the aforesaid case also, the appellant, who belonged to Valmiki caste (Scheduled Caste) of the State of Punjab, married to a person belonging to Valmiki caste of Uttarakhand State and migrated to that State. Irrespective of the fact that in the State of Uttarakhand, Valmiki caste is also recognized as Scheduled Caste, she was not made entitled to get the benefit of reservation of Valmiki caste in the State of Uttarakhand and the said appeal was accordingly dismissed by the Hon'ble Supreme Court.”

7. This Court had also an occasion to deal with the similar issue in the case of **Pramila Orain Vs. The State of Jharkhand & Others** [W.P.(C) No. 4110 of 2022] wherein the petitioner, who was belonging to 'Oraon' community, had migrated from the State of Chhatisgarh to the State of Jharkhand after solemnizing her marriage and was claiming benefit of reservation in the State of Jharkhand stating that the tribe namely 'Oraon' is also considered as 'Scheduled Tribe' in the State of Jharkhand. This Court dismissed the writ petition in the light of the ratio laid down by the Hon'ble Supreme Court in the case of **Ranjana Kumari (Supra), Marri Chandra Shekhar Rao (Supra) and Action Committee on Issue of Caste Certificate to SCs/STs in the State of Maharashtra (Supra)**.

8. Recently, in the case of **Kanchan Kumari & Anr. Vs. State of Jharkhand & Ors. [W.P.(S) No. 1943/2019]**, which was also related to the said examination, it has been held by this Court as under:-

"19. Thus, the issue is no more *res integra* that a person, who has migrated to the other State, shall get benefit of reservation only in his/her parent State i.e., the State of origin and not in the migrant State, even though the caste of that person is being given the benefit of reservation in the migrant State."

9. In the present case also, the admitted fact is that the state of origin of the petitioner is State of Bihar and she migrated to State of Jharkhand after her marriage. The petitioner obtained caste certificate from the office of the Sub-Divisional Officer, Godda by giving the address of her husband as her place of residence. This Court is of the view that on mere ground that caste certificate of the petitioner for S.T category has been issued by the Sub-Divisional Officer, Godda, she cannot claim benefit of reservation in the State of Jharkhand in view of the settled position of law that a person, who has migrated to the other State, shall get benefit of reservation only in the State of origin.

10. Since the issue raised in the present writ petition has already been set at rest, this Court is of the view that the prayers made in the present writ petition deserve to be dismissed.

11. The present writ petition is accordingly dismissed.

Satish/-

(RAJESH SHANKAR, J)