

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.10593/2020

(Arising out of impugned final judgment and order dated 17-02-2020 in WP(SB) No.475/2018 passed by the High Court of Uttarakhand at Nainital)

RUBY KHATOON

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND &amp; ORS.

Respondent(s)

Date : 04-04-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE M.M. SUNDRESHFor Petitioner(s) Mr. Abhishek Aanand Rai, Adv.  
Mr. Nishant Jethra, AORFor Respondent(s) Mr. Saurabh Trivedi, AOR  
Ms. Rachna Gandhi, Adv.  
Mr. Ashutosh Sharma, Adv.Mr. Jatinder Kumar Bhatia, AOR  
Mr. Krishnam Mishra, Adv.  
Mr. Param Kr. Mishra, Adv.UPON hearing the counsel the Court made the following  
O R D E R

The present proceedings arise from a writ petition filed by the petitioner before the High Court seeking direction against State of Uttarakhand to issue a no objection certificate to the petitioner enabling her to join services as a Forest Range Officer which in turn was predicated on requirement of issuing a caste certificate by the sixth respondent in the proceedings. This writ petition was dismissed by the impugned Order dated 17.2.2020.

We had issued notice in the matter, counter affidavits have been filed and we have heard learned counsel for parties.

In view of the aforesaid and on perusing the records what transpires is that in Writ Petition (M/S) No.1510 of 2017 (Annexure P-10) decided on 12.3.2018 it was opined that the petitioner belongs to the OBC community i.e. 'Momin Ansaar' and the only issue was whether the petitioner was a permanent resident of State of Uttarakhand or not. In that context, the High Court observed that the petitioner was born on 02.5.1984 at Jaspur, District Udham Singh Nagar and the entire schooling of the petitioner was from Jaspur and Kashipur in District Udham Singh Nagar, Uttarakhand. However, after discussing the merits of the controversy it was noticed that the Court had been informed that FIR has already been registered and charge-sheet has been filed on which the Court refused to opine. Court directed that the enquiry be completed in the matter within a period of six months from the date of production of a certified copy of the Order qua the issue of the caste certificate and in the meantime the provisional caste certificate was to remain in force subject to the final outcome of the enquiry.

The enquiry was thereafter held which opined against the petitioner vide Order dated 22.6.2018. The petitioner assailed those findings and in terms of the Order of the learned Single Judge dated 04.9.2019 the writ petition was allowed.

The State filed a belated appeal after 431 days being SPA No.319 of 2020. The delay was however condoned. The appeal was admitted on the premise that the special appeal No.1004 of 2019

being of the complainant/ respondent No.3 in those proceedings had also been admitted and interim stay was directed on the Order dated 04.9.2019 though the petitioner was permitted to continue in service.

In order the petitioner is to be entitled to get relief, the SPA Nos.319 of 2020 and 1004 of 2019 will have to be decided or the stay granted on 23.12.2020 by the Division bench has to be lifted.

In the conspectus of the aforesaid, we permit the petitioner to move an application for lifting of the stay order dated 23.12.2020 or request the Division Bench to opine one way or the other in those proceedings so that the cloud which is over the issue of the petitioner of being a permanent resident of the State of Uttarakhand is lifted.

This task is stated to have been simplified, as per learned counsel for the petitioner, as the charge-sheet filed against the summoning order has since been quashed.

We hope and expect the Division Bench to bestow an early consideration on the matter and put a quietus to this issue.

The special leave petition stands disposed of.

Pending application, if any, stands disposed of.

(RASHMI DHYANI)  
COURT MASTER

(POONAM VAID)  
COURT MASTER