



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

1. S.B. Civil Writ Petition No. 11093/2020

Prem Devi D/o Shri Rang Lal W/o Shri Ganga Ram, Aged About 50 Years, R/o Village- Jhajharpur, Tehsil- Mundawar, Sodawas,alwar (Rajasthan)- 301427

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Revenue, Secretariat, Jaipur
2. Sub Division Magistrate Officer, District Alwar, Rajasthan Tehsildar, Tehsil-Mundawar, District-Alwar, Rajasthan
3. Tehsildar, Nangal Choudhary, District- Mahendergarh (Haryana)

----Respondents

2. S.B. Civil Writ Petition No. 5159/2020

Ashvani W/o Shri Kanwar Singh D/o Ravinder Yadav, Aged About 32 Years, R/o Village Rodwal, Tehsil Neemrana, District Alwar (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through Principal Secretary, Rural Development And Panchayati Raj Department, Rajasthan.
2. B.d.o. Panchayat Samiti Neemrana, Tehsil Neemrana, District Alwar (Raj.)
3. District Collector, Alwar, District Alwar (Raj.)
4. Returning Officer, (Panchayat) (S.d.m.) Neemrana District Alwar (Raj.)
5. S.d.o., Tehsil Neemrana, District Alwar (Raj.)
6. Tehsildar, Tehsil Neemrana, District Alwar (Raj.)

----Respondents

Connected With

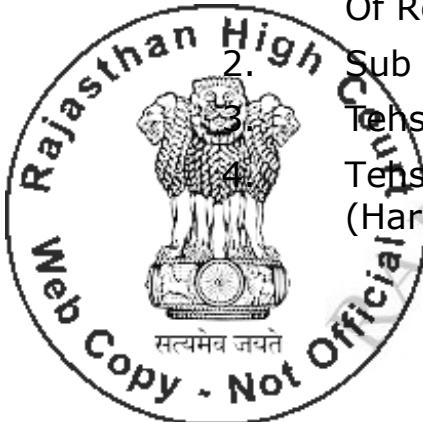
3. S.B. Civil Writ Petition No. 5009/2020

Omwati Yadav W/o Yashwant Singh Yadav, Aged About 61 Years, R/o Katopur, Kutubpur, Tehsil Kotkasim, District Alwar.

----Petitioner

Versus

1. The State Of Rajasthan, Through District Collector, Alwar.
2. Sub-Divisional Officer, Kotkasim, District Alwar.
3. Tehsildar, Teshil Kotkasim, District Alwar.





----Respondents

4. S.B. Civil Writ Petition No. 4140/2020

Asha Devi W/o Shri Rupesh Kumar, Aged About 34 Years, R/o
Vijay Singh Pura, Majri Kalan, District Alwar, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Revenue, Secretariat, Jaipur.
2. Sub Division Magistrate Officer, Tehsil Neemrana, District Alwar, Rajasthan.

Tehsildar, Tehsil-Neemrana, District-Alwar, Rajasthan.

----Respondents

5. S.B. Civil Writ Petition No. 8413/2020

Santosh Devi W/o Karmveer, D/o Mohar Singh, Aged About 55 Years, Village Kalakhari, Tehsil Buhana, District Jhunjhunu, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through Its Principal Secretary Department Of Personnel, Secretariat Jaipur, Rajasthan.
2. District Collector, Jhunjhunu, Rajasthan.
3. Sub Divisional Magistrate, Buhana, District Jhunjhunu, Rajasthan.
4. Tehsildar, Buhana, District Jhunjhunu, Rajasthan.

----Respondents

6. S.B. Civil Writ Petition No. 10567/2020

Sushila W/o Rohitash, Aged About 43 Years, R/o 35, Bheemsingh Pura, Tehsil Behror, District Alwar

----Petitioner

Versus

1. State Of Rajasthan, Through Its Secretary, Department Of Revenue, Secretariat, Jaipur
2. Sub Division Magistrate Officer, Tehsil Neemrana, District Alwar, Rajasthan
3. Tehsildar, Tehsil- Neemrana, District- Alwar, Rajasthan
4. The Tehsildar, Tehsil Narnaul, District Mahendragarh (Haryana)

----Respondents

For Petitioner(s) : Mr. M.S. Raghav, through VC
Mr. Sudhir Yadav, through VC
Mr. Bharat Yadav, through VC

For Respondent(s) : Mr. Anil Mehta, AAG through VC



**HON'BLE MR. JUSTICE SATISH KUMAR SHARMA****Order****24/09/2020**

1. All these writ petitions have been presented seeking directions to the respondents to issue caste certificate of Scheduled Caste/ Other Backward Classes category in favour of the petitioners and to allow them to participate in the ongoing Panchayat Elections by giving benefit of reservation.

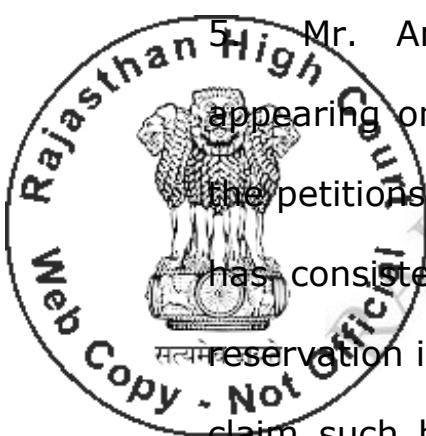
Since common legal issue is involved in all these petitions, the same are being disposed of by this common order. A copy of the order be placed in all the connected petitions.

3. Heard learned counsel appearing for both the sides and perused the material made available on record.

4. Learned counsel appearing on behalf of the petitioners have submitted that the petitioners were born in other states where they were issued caste certificate in SC/OBC category. After marriage, the petitioners have migrated to Rajasthan and the caste of their husbands in Rajasthan also falls in the same category i.e. SC/ OBC, to which they belong in their home state. After marriage all the petitioners are continuously residing in the State of Rajasthan. The petitioners do not want the caste certificate for claiming reservation in public employment. They require the certificate for participating in Panchayat Elections and other benefits in view of judgment of this Court dated 18- 9-2018 in State of Rajasthan Vs. Manju Yadav [DB SAW No.1116/2018]



based on the judgment of Supreme Court in Bir Singh Vs. Delhi Jal Board [(2018)10 SCC 312]. Some similarly situated migrant persons have been issued caste certificate in reserve category but the petitioners have been denied for the same. The petitions deserve to be allowed.



Mr. Anil Mehta, learned Additional Advocate General, appearing on behalf of the respondents has vehemently opposed the petitions with the submissions that the Hon'ble Supreme Court has consistently held that a person can only claim benefits of reservation in the State of his origin and a migrated person cannot claim such benefits in the State to which he/she has migrated, even though his/ her caste belongs to SC/ OBC category in both the states. In none of the judgments of the Hon'ble Supreme Court no person has been declared to be entitled for reservation in election in migrant state. The judgments of this Court in Smt. Poonam Yadav Vs. State of Rajasthan [DBSAW No.749/2017] and State of Rajasthan Vs. Manju Yadav [DBSAW No.1116/2018] are per incuriam and have been passed without considering the decision of Hon'ble Supreme Court. In these judgments also, such migrated persons have not been found eligible for reservation in public employment and in elections. Thus, the petitioners are not entitled for reservation in ongoing Panchayat Elections. The petitions deserve to be dismissed. He has placed reliance on the judgments of Hon'ble Supreme Court in Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra Vs. Union of India [(1994)5 SCC 244], Marri Chandra Shekhar Rao Vs. Dean GETH G.S.



Medical College [(1990)3 SCC 130], Ranjana Kumari Vs. State of Uttarakhand [(2019)15 SCC 664].

6. Heard. Considered.

7. On careful perusal of the judgments cited by the counsel

appearing for both the sides, this well settled legal position emerges out that a person of reserved category is entitled to derive the benefits of reservation only in the State of his origin and not in the state to which he has migrated irrespective of the fact whether his caste is covered in the same reserve category in both the States.

8. Though in the judgments of this court in Poonam Yadav (supra) and Manju Yadav (supra), the State Authorities have been directed to issue caste certificates for the females who have been migrated from the other state after marriage, but at the same time it has been categorically clarified that only on the basis of such certificates, they shall not be entitled for the benefit of reservation in public employment and such certificates may be relevant for grant of benefits like housing scheme, which may be made available on the basis of domicile or residence.

9. Hon'ble Supreme Court, in none of the Judgments has held that the person of reserve category is entitled for reservation in elections in the State to which he has migrated. Though, this Court in State of Rajasthan Vs. Manju Yadav (supra) has held that such migrated persons are not entitled for reservation in public employment, but no mention has been made for reservation in



elections, therefore it is not so that such persons have been declared to be entitled for reservation in elections including Panchayat Elections. Otherwise also, if the benefit of reservation in elections is allowed to such migrant persons, the constitutional mandate under Article 341 and 342 of the Constitution of India would bound to be frustrated/ negated and this would also be a violation of the verdict of Hon'ble Supreme Court as well.



10. In view of the above legal position, the petitioners, who have admittedly migrated from other States to Rajasthan on their marriage, are not entitled for claiming the benefit of reservation in ongoing Panchayat Elections in Rajasthan.

11. For issuing of caste certificate for other purposes, while referring to the judgment of Hon'ble Supreme Court in Bir Singh (supra), the Division Bench of this court in the case of Manju Yadav (supra) has categorically held that though the females migrated from other states to the State of Rajasthan are not entitled for the benefit of reservation in public employment, but they are entitled for caste certificates as such certificates may be relevant for grant of some benefits, e.g. housing scheme.

12. As per law of precedent, above decision of the Division Bench of this Court shall prevail until and unless it is overruled. Therefore, in compliance of the verdict of this Court in State Vs Manju Devi (supra), the State Authorities are bound to issue caste certificates to the migrated persons from other States to Rajasthan but since, such certificate is to be issued for limited purposes and not for taking benefits of reservation in public



employment and Elections, therefore, in order to avoid any sort of confusion in the mind of such migrant persons, to prevent misuse of such certificates and to ensure clarity regarding issuance of such certificates, it may be most appropriate that a prominent note is appended to such caste certificates as needed for the purpose.



13. It may be relevant to note that the petitioners have filed Circular dated 09-09-2015, containing guidelines to issue caste certificates which envisages detailed procedure for the purpose.

The Sub Divisional Magistrate has been designated as competent authority to issue caste certificate. If the application for issuing caste certificate is rejected by the Sub Divisional Magistrate, an appeal may be filed against the decision of SDM before the District Level Caste Certificate Scrutiny Vigilance Committee, headed by the concerned District Collector. Further, the decision of the Committee may also be challenged before the State Level Committee. Thus, a well defined and effective mechanism has been evolved for issuance of caste certificates.

14. Before issuing caste certificate to the petitioners, relevant factual aspects are required to be considered, therefore this Court cannot straightway issue any direction to the competent authority to issue caste certificates in their favour, however they may apply for the same before concerned competent authority and may take legal recourse in case of rejection of their application in accordance with the procedure as established by the above circular dated 09.09.2015 issued by the State of Rajasthan.



15. In view of the above discussion, all these petitions are disposed of in following manner:-

(i) The prayer of the petitioners for claiming the benefit of reservation in ongoing Panchayat Elections is hereby declined.

(ii) For issuance of caste certificate, the petitioners are at liberty to apply before the competent authority (concerned Sub Divisional Magistrate) who shall expeditiously dispose of their application(s) after following due procedure and in case of rejection of the application, the petitioners may take available legal recourse.

(iii) In order to avoid any sort of confusion, to prevent misuse of caste certificates and to ensure clarity in issuing the certificates in favour of the persons who have migrated from other States to the State of Rajasthan, a note shall be prominently appended to such caste certificates as under:-

(a) On the basis of this certificate, the migrated person shall not be entitled to claim benefit of reservation in public employment and elections including Panchayat Elections.

(b) This certificate has been issued only for the limited purpose of claiming benefits specifically made available for such migrant persons in Government Schemes.

(c) Some other clarification may also be appended as deemed necessary.

(iv) Interim orders are vacated and stay applications stand disposed of.

(SATISH KUMAR SHARMA),J

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