

*Before Ranjit Singh, J.*

**PRATEEK KUMAR—Petitioner**

*versus*

**BABA FARID UNIVERSITY OF HEALTH SCIENCES,  
FARIDKOT—Respondent**

**CWP No. 14467 of 2012**

August 23, 2012

*Constitution of India, 1950 - Art. 226/227 - Whether Scheduled Caste Certificate issued in Haryana would be effective in the State of Punjab - Eligibility for Punjab Medical Entrance Test, 2008 - admission to MBBS and BDS courses - Petitioner submitted scheduled caste certificate issued by SDM (South), UT, Chandigarh certifying that he belongs to scheduled caste - Petitioner informed at the time of counseling that certificate cannot be accepted, Petitioner subsequently submitted certificate from Head of Institution where he had studied in 10+1 and 10+2 classes despite which he was not granted admission - Respondents objection is that the certificate is based on caste certificate issued by State of Haryana - Petition allowed*

*Held*, that if one is to examine the list of competent authorities, which can issue certificate, then it may show that there is no specific requirement for a candidate to obtain certificate from officer of the State of Punjab alone. Sub Divisional Officer of the area, where the candidate and/or his family normally resides is also competent to issue caste certificate. One of the competent officer is Administrator/ Secretary to the Administrator, Development Officer of Lakshadweep Island, who can issue such a certificate. Such Officer would not be an Officer of the State of Punjab and in case such officer issues scheduled caste certificate, obviously the same cannot be ignored on the ground that it is not issued by an Officer of the State of Punjab.

(Para 7)

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*Further held*, that it is mentioned that a person who is employed in Government of India or any other State Government are to be treated at par with the employee of Government of Punjab in the matter of issue of scheduled caste certificate provided scheduled caste certificate exists in their service record. Respective head of the department can issue scheduled caste certificate. Otherwise, it would sound strange to notice that a person with caste 'chamar' starting from say 'Ambala' would lose his caste as soon as he enters Punjab by travelling just a few kilometers distance, where 'chamar' is also a scheduled caste. It is a career of scheduled caste category candidate, which is at stake. The respondent-University is too hyper-technical, which stand is found unjustified. The petitioner has established his claim as a scheduled caste and he is being blocked on technicalities. The petitioner is entitled to admission, as per his merit.

(Para 15)

Petition allowed

R. K. Chopra, Sr. Advocate with Pawan Kumar, Advocate, *for the petitioner.*

K. S. Dadwal, Advocate, *for the respondent.*

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(1) What would be the effect of scheduled caste certificate of a person in the State of Punjab issued on the basis of one being a scheduled caste in the neighbouring State Haryana is an issue inviting determination in this case.

(2) The petitioner belongs to a *Chamar* caste, which is recognized as a scheduled caste in the State of Punjab as also in the State of Haryana. Having studied class 10+1 and 10+2 as a regular student in D.A.V. Public Senior Secondary School, Sector 64, Phase X, Mohali, the petitioner applied for admission to the M.B.B.S. and B.D.S. Course. The admission to the said courses in Government, private aided or unaided Colleges in the State is regulated by a notification dated 31.3.2008 issued by the Government of Punjab, Department of Medical Education and Research, Chandigarh. Baba Farid University of Health and Sciences, Faridkot, has

been authorized to conduct Punjab Medical Entrance Test, 2008 onwards. The eligibility conditions are contained in Paragraph 4 of the notification referred to above.

(3) As per the eligibility conditions, a candidate should have passed 10+2 or equivalent examination from a recognized Institution situated in the State of Punjab. Since, the petitioner has passed 10+2 Class from School at Mohali, he applied for admission to M.B.B.S. Course in the State of Punjab. The petitioner submitted his application form with a certificate issued by S.D.M. (South), Union Territory, Chandigarh, certifying that the petitioner belongs to the *chamar* caste, which is recognised as Scheduled caste as per notification noted therein. The specimen certificate is also provided in the prospectus and so also the competent authorities who can issue such certificates. It is not disputed that parents/guardians/ candidates can also obtain S.C certificate from the Head of the Institution, where such candidates have studied, if the proof is available in the school record. This is so provided in a communication dated 14.6.1999 addressed by the Chief Secretary to the Government Punjab to all Heads of the Departments etc. On this basis, the petitioner would claim his admission in the reserved category of scheduled caste in the State of Punjab.

(4) With these documents, the petitioner had submitted this application. He was allotted roll number. The petitioner accordingly appeared in PMET 2012 examination on 20.5.2012. The petitioner got 144th rank in the category of scheduled caste as per the result declared. Respondent Baba Farid University announced the counselling for M.B.B.S and B.D.S admission in the Government and private colleges, which was held at Guru Gobind Singh Medical College, Sadiq, Faridkot on 20.7.2012. There the petitioner was informed that the scheduled caste certificate attached with the application form is issued by Chandigarh Administration and as such, it can not be accepted. The petitioner was apprised that as per the notification dated 14.6.1999, the candidate can obtain such certificates from the Head of Institutions where he had studied, if the proof is available in the school records. The petitioner claims that he was told by the Counselling Committee to obtain the scheduled caste certificate from the Head of the Institution, where he had studied 10+1 and 10+2 classes. The petitioner accordingly obtained the certificate, Annexure P-2, dated 24.7.2012 from D.A.V. Public Senior School, Sector 64, Phase X, Mohali and produced the same

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before the Counselling Committee alongwith his representation. Despite this, the petitioner is not granted admission but candidates lower in merit upto the merit rank No.183 in the scheduled caste category, have been admitted to the M.B.B.S. Course. The petitioner accordingly has rushed to this Court with his grievance and has filed this writ petition to impugn the action of the respondent.

(5) Respondent-University has filed reply. It is stated that the scheduled caste certificate submitted by the petitioner can not be considered and in support reference is made to the judgement passed by the Hon'ble Supreme Court, where it is observed that a caste specified as scheduled caste in one State does not necessarily mean that another caste bearing the same nomenclature in other State, would entitle a person belonging to that caste to the rights, privileges and benefits admissible to a member of the scheduled caste in the later State. It is further averred that the petitioner does not belong to *chamar* caste in the State of Punjab and, therefore, he is not entitled to admission on the basis of said certificate. The other aspect highlighted is that the candidate must be a bonafide resident of Punjab whereas the petitioner is not so and is a resident of Chandigarh. As per the respondent, a mere declaration of a result can not confer any right in favour of any candidate. The averments made by the petitioner that he was asked to obtain a certificate from the Head of the Institution is denied. Reference is made to Annexure P-1 to say that the petitioner belongs to a *chamar* caste in the State of Haryana, which is recognized as a scheduled caste in the State of Haryana. By referring to another judgement of this Court, titled *Roshan Lal Vs. State of Haryana*, 2012 (3) RCR (Civil) 453, it is pleaded that scheduled caste migrant does not obtain such status in the State to which he has migrated by only the fact that the same very nomenclature of caste is also notified as scheduled caste in the place of his birth. The claim of the petitioner for admission in the M.B.B.S course in the reserved category of scheduled caste is, thus, seriously contested.

(6) The two objections raised by the respondent to deny admission to the petitioner apparently are too hyper-technical. It is not disputed that the petitioner is a *chamar*, which is also a caste recognized as Scheduled Caste in the State of Punjab. The certificate attached with the application form is issued by Sub Divisional Magistrate, Chandigarh, who has certified

that the petitioner is residing in Chandigarh and belongs to a *chamar* caste, which is recognized as a scheduled caste as under:-

“(As amended by the scheduled castes and Scheduled Tribes lists (Modification) Order 1956, the Bombay Reorganization Act, 1960, Punjab Re-Organization Act, 1966. The of Himachal Pradesh Act, 1970, the North Eastern Areas (Re-organization Act, 1971 and the Scheduled Caste and Scheduled Tribes Orders (Amendment Act, 1976).”

The officers who have been made competent to issue caste certificate as given in the prospectus are as under:-

“1. District Magistrate/Additional District Magistrate/Collector/ Deputy Commissioner/Additional Deputy Commissioner/ Deputy Collector/ First Class Stipendiary Magistrate/City Magistrate/Sub Divisional Magistrate/Talika Magistrate/Executive Magistrate/Extra Assistant Commissioner (Not below the rank of first class Stipendiary Magistrate).

II. Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.

III. Revenue Officer not below the rank of Tehsildar.

IV. Sub-Divisional Officer of the area where the candidate and/or his family normally resides

V. Administrator/Secretary to Administrator/Development Officer Lakshadweep Islands. (circulated vide No.2/223/79-SWI/4337, dated 8.6.90).

OR

“The certificate for this purpose issued by any other competent authority declared by Government of Punjab in any other prescribed proforma.”

(7) Annexure P-1 is the certificate which the petitioner attached with his application to claim reservation as scheduled caste candidate. Sub Divisional Magistrate (South), Chandigarh, has mentioned the basis on which he has certified the petitioner to be a scheduled caste as *chamar* on the basis of a certificate issued to Jai Pal Singh, father of the petitioner, who is shown to be from Pasina Kalan, Tehsil Panipat, District/Division

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Karnal of the State/Union Territory Haryana. He is stated to be belonging to the caste '*chamar*', which is mentioned as recognized as a scheduled caste in the State/Union Territory Haryana issued by the Sub Divisional Officer (Civil), Panipat, Haryana. The authority in this regard is also recorded in the certificate and it reads:-

"...vide:-their No.3387 dated 14.07.89 and report of the Tehsildar (R) U.T., Chandigarh vide his report dated 8.2.2011."

(8) The objection to this certificate is that it is based on a caste certificate issued by State of Haryana. On this basis, it is stated that it is not necessary that the caste *chamar* mentioned as scheduled caste in the State of Haryana would enable the petitioner to claim as scheduled caste in the State of Punjab.

(9) Before 1966, the States of Punjab and Haryana were one State. The case set up in the reply is not that the petitioner is not a '*chamar*' or that this is not a scheduled caste in the State of Punjab. The petitioner is residing at Chandigarh and has obtained the certificate from S.D.M., U.T., Chandigarh. He has based this certificate on a certificate of the father of the petitioner, which he had obtained from District Karnal, where he was born. Perhaps, at that time both the States were one. If one is to examine the list of competent authorities, which can issue certificate, then it may show that there is no specific requirement for a candidate to obtain certificate from officer of the State of Punjab alone. Sub Divisional Officer of the area, where the candidate and/or his family normally resides is also competent to issue caste certificate. One of the competent officer is Administrator/ Secretary to the Administrator, Development Officer of Lakshadweep Island, who can issue such a certificate. Such Officer would not be an Officer of the State of Punjab and in case such officer issues scheduled caste certificate, obviously the same can not be ignored on the ground that it is not issued by an Officer of the State of Punjab.

(10) Otherwise also the Officer who are made competent to issue such certificates in Para (i) to (iii) as reproduced above, does not provide in any manner that these officers necessarily have to be from the State of Punjab. Thus, the objection that this caste certificate issued by S.D.M., Union Territory, Chandigarh, based on certificate issued by authority of Haryana Officer would not appeal to me.

(11) It would have been a different matter if the objection had been that the caste of the petitioner, which is recognized as scheduled caste in Haryana is not recognized as scheduled caste in the State of Punjab. 'Chamar' caste is recognized as a scheduled caste in both the States. In addition, it is required to be appreciated and seen in the light of facts that both the States prior to 1966 were one joint State of Punjab. It seems that the father of the petitioner was born in a part which is now in Haryana but it was Punjab State at the time of his birth.

(12) The objection also is that the petitioner is not a bonafide resident of State of Punjab. This objection apparently is on two counts. One that the petitioner is residing at Chandigarh and that his certificate is based on certificate of his father issued in Haryana State. The eligibility criteria as provided in the Government of Punjab notification dated 31.3.2008 referred to above and reproduced in the prospectus is contained in Paragraph 4. To become eligible, the candidate should have passed 10+2 or equivalent examination and the qualifying examination from a recognized Institution/University. Thus, to become eligible as bonafide resident of State, the candidate should have passed his or her 10+2 examination or other qualifying examination of 10+2 as a candidate of recognized Institution situated in the State of Punjab except for exemptions wherever applicable. A candidate is required to submit certificate to this effect from Principal/Head of the Institution last attended and this certificate is also prescribed in the proforma. The petitioner has passed his 10+2 examination from Mohali and he claims to be bonafide resident of State of Punjab. In addition, the petitioner has claimed that his father holds an immovable property in Tehsil and District S.A.S. Nagar, Mohali. During the course of arguments, the counsel for the petitioner has placed before me a residence certificate also, which is accepted and kept on record as mark 'A'. On this basis, the eligibility of the petitioner, as per the conditions laid down in the prospectus perhaps may not be open to be questioned much. The petitioner has a residence certificate to show, which is as per the notification and otherwise also, he has studied 10+2 class from an Institution situated in the State of Punjab i.e. Mohali. The respondent has also not pressed this objection very hard. Basically, the claim of the petitioner in the reserved category of scheduled caste alone has been questioned. Once the respondent- University has laid down a condition to provide for condition of eligibility and it being study in an Institution in the State of Punjab, it is not fair to insist on some additional requirement also.

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(13) As already noticed, the case set up by the respondent University is not that the petitioner is not *chamar* by caste and that *chamar* is not a scheduled caste in the State of Punjab. If that be so, then what is the fuss. At least, I have not been able to really appreciate. The judgement relied upon by the counsel in the case of *Roshan Lal* (supra) apparently is not of much relevance. The petitioner is not a scheduled caste migrant, who is wanting to obtain a status in the State of Punjab. He is also not seeking admission in the reserved category of scheduled caste only on the basis that same very nomenclature of caste is notified as a scheduled caste in the place of his birth. This Court in the case of *Roshan Lal* (supra) was dealing with a case of the petitioner who had migrated from Bihar to Haryana, when he was 15 years of age. The certificate issued by Officer in the State of Haryana was annulled, which action is held justified by this Court. It is observed that the proper remedy for the petitioner would be to only apply and secure a scheduled caste certificate from the place of his birth. In this case, the certificate of the petitioner is based on a certificate of his father issued from the place of his birth and the certificate now relied upon by the petitioner is on that basis. Rather, the observation made by this Court may stand in support of the certificate of the petitioner.

(14) It can be observed that if the respondent University was to examine the authenticity of the certificate in this manner, then it ought to have been so clarified and mentioned clearly in the prospectus or the notification. The notification does not clearly specify if person has to obtain a scheduled caste certificate from any authority, which is an authority at the place of birth or place of residence or any authority in the State of Punjab. It is perhaps to remove such difficulties being faced that a provision was made for a candidate to obtain a certificate of scheduled caste from an Institution, which he or she had last attended. This purpose is clearly given in Annexure P-7, which is the communication addressed by Chief Secretary, Government of Punjab. It is mentioned in this communication, that the requirement of this certificate was leading to harassment and panic amongst the students and for the candidates and their parents/guardians. It is, thus, noticed that they had to apply for such certificate to more than one authority simultaneously and that too within a limited period. In order to overcome such difficulties mentioned above, it was decided by the Government that following procedure be followed meticulously by all the educational and other authorities:-

“(1) Certificates issued in the format and by the authorities prescribed by the Govt. Departments shall be accepted as valid by all educational institutions and other authorities.



(2) Where a number of authorities have been authorised to issue the certificates there shall be no insistence on issue of a certificate by any particular authority or by the highest authority indicated in the format.

(3)(a) In case of entrance examinations, no certificate should be called for in the first instance alongwith the application form. It will be sufficient for the candidate seeking admission or other facility to indicate in the application form whether he/she belongs to any particular category entitling him/her to certain concessions or facility. Requisite certificates may be obtained only from the selected/wait listed candidates.

(3)(b) To further simplify the procedure attested copies of the certificates only shall be retained and original certificates if required to be produced at the time of interview shall be returned immediately, thereafter.

(4) Parents/guardian or candidates can also obtain SC certificates from the Head of the Institution where the candidates has studied if the proof is available in the school records.

(5) The persons who are employed in Govt. of India or any other State Govt. are to be treated at par with the employees of the Govt. of Punjab in the matters of issue of Scheduled caste certificate provided relevant Scheduled Caste certificate exists in their service record. The scheduled caste certificate in such will be issued by the respective Heads of Departments in the proforma below:-

CERTIFICATE TO BE ISSUED BY THE RESPECTIVE  
HEAD OF THE DEPARTMENT.

Certified that Shri \_\_\_\_\_ s/o Sh. \_\_\_\_\_ father/  
mother of Miss/Mr. \_\_\_\_\_ is an employee  
\_\_\_\_\_ of (State Govt. Institution/underworkings) the Govt.  
of Punjab and is working as \_\_\_\_\_. He is posted at  
Chandigarh/Punjab in connection with the Affairs of the Punjab Govt.  
For a period of past three years.

(6) In case of freedom fighters, political sufferers terrorists/riot victims and migrations where the registers are maintained by D.C. Office, the certificate may be issued by Deputy Commissioner/GA to D.C./A.D.C.”

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(15) It is in this context that the parents or guardians or the candidates could obtain scheduled caste certificate from the head of the Institution where the candidate had studied, if the proof is available in the school record. The petitioner has, thus, even procured such a certificate from the Institution which he last attended. A copy of this certificate is annexed with the petition as Annexure P-2. This certificate is issued by Principal, D.A.V. Public Senior Secondary School, Mohali, and is dated 24.7.2012, certifying that the petitioner belongs to a *chamar* caste and that he has passed 10+2 examination from the said school as a regular student and further that as per the School record, the petitioner belongs to scheduled caste category. On this certificate, the respondent-University has raised another technical objection. It is urged that the Institution could issue such certificate, if the proof was available in the school records. The certificate Annexure P-2 clearly recites that as per the school record, the child belongs to scheduled caste category. Thus, all the objections raised by the respondent-University apparently are misconceived and misplaced. Incidentally, it may be noticed here that in Annexure P-7, it is mentioned that a person who is employed in Government of India or any other State Government are to be treated at par with the employee of Government of Punjab in the matter of issue of scheduled caste certificate provided scheduled caste certificate exists in their service record. Respective head of the department can issue scheduled caste certificate. Otherwise, it would sound strange to notice that a person with caste '*chamar*' starting from say 'Ambala' would loose his caste as soon as he enters Punjab by travelling just a few kilometers distance, where '*chamar*' is also a scheduled caste. It is a career of scheduled caste category candidate, which is at stake. The respondent-University is too hyper-technical, which stand is found unjustified. The petitioner has established his claim as a scheduled caste and he is being blocked on technicalities. The petitioner is entitled to admission, as per his merit. Since the candidates lower in merit to the petitioner have already been admitted, case is made out for issuing direction to the respondent to consider the claim of the petitioner and admit him to M.B.B.S. Course as per his merit.

(16) The writ petition is accordingly allowed.