

(2017) 12 AHC CK 0038
ALLAHABAD HIGH COURT
Case No: 1917 of 2015

Rahul Ray

APPELLANT

Vs

Union Of India Thru
Secy.Min.Of Social
Justice &
Empowerment

RESPONDENT

Date of Decision: Dec. 14, 2017

Acts Referred:

- Uttar Pradesh Scheduled Caste/Schedule Tribe Post Matric Scholarship
- Scheme Rules, 2012, - Rule 8, Rule 8(II)

Hon'ble Judges: Devendra Kumar Upadhyaya

Bench: Single Bench

Advocate: Rajesh Singh Chauhan, Ajay Kumar Singh Chauhan, Ajay Kumar Singh Tomar,
Anand Dwivedi, R.K. Singh, Rakesh Kumar Maurya

Judgement

1. Heard the petitioner, who appears in person, learned Standing Counsel appearing for the State-respondents and Shri Raj Kumar Singh, learned counsel representing the Union of India.

2. This Court on 23.11.2017 passed an order requiring the learned Standing Counsel to produce the entire records, both from the office of Director, Social Welfare, U.P., Lucknow and also from the office of District Social Welfare Officer, Jaunpur pertaining to the application made by the petitioner for grant of scholarship and also relating to the enquiry which appears to have been conducted by the District Social Welfare Officer, which has been relied upon in the counter affidavit filed by the Director, Social Welfare, U.P.

3. The relevant records have, thus, been produced by the learned Standing Counsel which have been perused by the Court as well.

4. By means of this writ petition, the petitioner challenges an order dated 21.11.2014, passed by the Director, Social Welfare, Government of U.P., Lucknow, whereby representation made by the petitioner in respect of his claim for grant of scholarship for pursuing his Commercial Pilot License Course at a certain institution has been rejected.

5. The petitioner had earlier filed a writ petition, namely, Writ Petition No.6030 (M/S) of 2014, which was finally disposed of by this Court by passing an order on 22.09.2014 directing therein that the petitioner will approach the Director, Social Welfare, U.P., who will look into the matter and pass reasoned order. It is in compliance of the said order dated 22.09.2014 that the impugned order has been passed by the Director, Social Welfare, U.P., Lucknow on 21.11.2014 rejecting the claim of the petitioner.

6. The petitioner appears to have applied for undergoing a training course for grant of Commercial Pilot License at an institution known as Amber Aviation India Pvt. Ltd., Dehradun, Uttarakhand. The petitioner also applied for grant of Post Matric Scholarship as admissible in terms of the provisions contained in U.P. Scheduled Caste/Schedule Tribe Post Matric Scholarship Scheme Rules, 2012 (herein after referred to as "the Rules, 2012") issued vide Office Memorandum dated 26.09.2012. It appears that the petitioner's claim was not acceded to by the authorities of the department concerned which led the petitioner to file Writ Petition No.6030 (M/S) of 2014 in which the direction was issued on 22.09.2014 to the Director, Social Welfare, U.P., Lucknow to decide the claim of the petitioner.

7. The Director, while passing the impugned order dated 21.11.2014, has relied upon a report submitted by the District Social Welfare Officer, Jaunpur on 12.06.2014, wherein it has been stated by the District Social Welfare Officer that (i) the income certificate annexed with the application seeking grant of scholarship has been issued in the name of the petitioner-Rahul Ray which is not in conformity with the requirement of Rule 8 of the Rules, 2012, (ii) that the petitioner had shown himself to have taken admission on 05.08.2013 in the academic session 2013-14 and has accordingly applied for grant of scholarship, however, till 06.06.2014 the studies of the said course in which the petitioner is said to have taken admission had not started and thus the petitioner had only got himself registered, (iii) the petitioner had demanded grant of scholarship against free-seat, though the petitioner has not annexed any document evidencing that he had cleared any examination or he had been allotted any seat on the basis of counselling and (iv) that the application form of the petitioner had not been forwarded by the institution concerned.

8. After discussing the aforesaid report dated 12.06.2014 submitted by the District Social Welfare Officer, Jaunpur, the Director also recites in the impugned order that the Directorate vide its letter dated 11.07.2014 directed the District Social Welfare Officer, Jaunpur to obtain the income certificate of the parents of the petitioner and make it available to the Directorate and further that the said letter dated 11.07.2014 was also endorsed to the petitioner with the instructions to him that he must also submit the income certificate of his parents from all sources of income through the District Social Welfare Officer, Jaunpur, however, till 20.10.2014 the petitioner did not make available the requisite income certificate. The impugned order also recites that the income certificate submitted by the petitioner in support of his claim along with the application for grant of scholarship when was compared with certificate available on the official website, it was found that the said certificate had been issued in the name of the petitioner.

9. After making the aforesaid recitations, the Director has, thus, concluded that the application made by the petitioner for grant of scholarship was rightly rejected by the Directorate on 21.10.2014 and has accordingly rejected the representation made by the petitioner pursuant to the order dated 22.09.2014 passed by this Court in Writ Petition No.6030 (M/S) of 2014.

10. The record available in the office of District Social Welfare Officer, Jaunpur has been produced by the learned Standing Counsel, which has also been perused by the Court. The District Social Welfare Officer, Jaunpur required the Village Development Officer, Sikrara, District-Jaunpur to conduct an enquiry pursuant to the letter of the Directorate of Social Welfare. Through the said letter, the District Social Welfare Officer had required the concerned Village Development Officer to conduct an inquiry into the issue relating to caste to which the petitioner's parents belong to, their residence and also their income from all sources. The Village Development Officer was required to submit his report and accordingly he submitted his report dated 06.06.2014 which is also on record, produced today by the learned Standing Counsel. In the said report, the Village Development Officer has clearly indicated that the petitioner is a permanent resident of village and Post Office-Sahpur, District- Jaunpur and that the petitioner's father belongs to the category of Schedule Caste and that the income certificate annexed with the application for grant of scholarship has been issued in the name of the petitioner which is correct and that the income certificate has not been issued in the name of the petitioner's father. The said report further states that the petitioner has been registered with Amber Aviation India Pvt. Ltd., Dehradun, Uttarakhand, however, the studies in the said institution have yet not started and the same shall start only once the requisite fee is deposited. Based on this report, the District Social Welfare Officer submitted his report in pursuance of the letter of the Directorate, Social Welfare, vide his letter dated 12.06.2014. It is this inquiry dated 12.06.2014, which has been mentioned and is the basis of the order passed by the Director dated 21.11.2014, which is under

challenge herein.

11. From a perusal of the impugned order and report submitted pursuant to the letter of the Directorate, what emerges is that there is just one reason indicated by the authorities, including the Director of Social Welfare to deny the petitioner the benefit of scholarship and the reason is that the income certificate furnished by the petitioner in support of his application for grant of scholarship was not in conformity with the requirement of Rule 8 of the Rules, 2012 having been issued not in the name of his parents but in his own name. The aforesaid reason if considered vis-a-vis the provisions contained in Rule 8 of the aforementioned Rules, 2012, the same is found absolutely misconceived and, in fact, is based on complete misreading of Rule 8 as also the certificate which the petitioner had submitted along with his application for grant of scholarship. The genuineness of the certificate submitted by the petitioner has not been denied; rather as per the reports of the authorities which find mentioned in the impugned order, if the certificate submitted by the petitioner is compared with the certificate available on the official website, the same is found to be genuine. Accordingly, so far as the authenticity of the certificate submitted by the petitioner in support of his claim for grant of scholarship is concerned, there is no dispute.

12. A perusal of the certificate, which is on record of this writ petition, reveals that the same has been issued under the digital signatures of the competent authority/Tehsildar on 19.10.2013. The certificate certifies that the petitioner-Rahul Ray, S/o Om Prakash Ray, R/o Village & Post-Sahpur, Tehsil & District- Jaunpur, is the resident of the said place as described therein and further that monthly income of the father of the petitioner is Rs.3000/- per month, according to which, yearly income of the father of the petitioner is Rs.36,000/-. Thus, the certificate relied upon by the petitioner along with the application for grant of scholarship clearly certifies two things; (i) that the petitioner is the son of Om Prakash Ray and resident of the location given in the said report and (ii) that monthly income of the father of the petitioner is Rs.3000/- and accordingly his yearly income is Rs.36,000/-. It cannot be said that the said certificate has been issued in any one's name. The certificate only certifies the recitations for which it has been issued by the authority. It only certifies the residence of the petitioner, his parentage and income of his father.

13. As to whether the certificate being relied upon by the petitioner is in conformity with the provisions/requirements of Rules, 2012 or not, it would be relevant to refer to the provisions contained in Rule 8 of the said Rules, 2012 which runs as under:

"VERNACULAR MATTER OMITTED"

14. Rule 8 of the Rules, 2012 provides for the evidences, which will be admissible in relation to income of the parents/guardians, according to which, in case the father/mother or guardian of the applicant is in job, then the income certificate to be issued by the employer and other incomes to be declared on a judicial stamp paper of Rs.10/- with the affidavit, shall be admissible. Rule 8 further provides that in case the father/mother or husband or guardian, as the case may be, of the applicant is not in job, then the certificate to be issued by the Tehsildar certifying the total income from all sources of income which should be available on the website of the Board of Revenue, shall be admissible.

15. Since the petitioner's father is not in any job or employment, in case of the petitioner, Clause 8(ii) of the Rules, 2012 is relevant, according to which any certificate issued by the Tehsildar certifying the total income of the father of the applicant from all sources, would suffice to determine as to whether the petitioner was eligible for grant of scholarship or not, provided that such certificate issued by the Tehsildar is necessarily available on the website of the Board of Revenue. If the certificate relied upon by the petitioner is taken into consideration, it is revealed that it has been issued by the Tehsildar under his digital signatures and is also available on the website of the Board of Revenue as has already been admitted by the respondents. Thus, the requirement of Rule 8(ii) of the Rules, 2012 that the certificate, in case the father of the petitioner is not employed, should have been issued by the Tehsildar and it should have been available on the official website of the Board of Revenue appears to be complete. The said certificate being relied upon by the petitioner is undoubtedly, rather undisputably has been issued by the Tehsildar and it is also available on the web-site of the Board of Revenue. Merely because it has not been issued in the name of the petitioner's father cannot be a ground for rejection of the claim of the petitioner for the reason that there is no such requirement under Rule 8 of the Rules, 2012. It is also to be noticed that the certificate dated 19.10.2013 has not been issued in the name of the petitioner, rather it only mentions the name of the petitioner, his father's name and his residence. Such description would not mean that the certificate has been issued in the name of the petitioner and not in his father's name. It also substantially meets the requirement of a certification which might be needed by the Social Welfare Department for evaluating eligibility of the petitioner for grant of scholarship as it clearly certifies that monthly income of the father of the petitioner is Rs. 3000/- and his yearly income is Rs.36,000/-. The form of the certificate is not material; rather the contents of the certificate has to be taken into consideration for the purpose for which it has been issued. In whose name has it been issued has no relevance at all.

16. It appears that the District Social Welfare Officer, Jaunpur, while submitting his report dated 12.06.2014 and the Director of Social Welfare, while passing the impugned order dated 21.11.2014, both have completely misread not only the contents of the income certificate being relied upon by the petitioner but also the

provisions of Rule 8 of the Rules, 2012. There does not appear to be any sustainable reason assigned by the respondents to have denied the benefit of the petitioner of scholarship to which he may be otherwise eligible.

17. Resultantly, the writ petition is allowed and the impugned order dated 21.11.2014 passed by the Director, Social Welfare, U.P., Lucknow, as is contained in annexure no.9 to the writ petition, is hereby quashed.

18. The Director, Social Welfare, U.P., Lucknow is directed to consider the prayer of the petitioner for grant of scholarship afresh in the light of the observations made herein above in this judgment and also taking into account the other eligibility criteria for grant of scholarship to the petitioner.

19. It is further directed that the Director, Social Welfare while taking any decision in terms of this order shall also make concrete enquiries about the existence of the Amber Aviation India Pvt. Ltd. i.e. the Institute where the petitioner is said to have taken admission for pursuing his studies for grant of Commercial Pilot License and also about the fact as to whether the petitioner is actually pursuing the course for grant of Commercial Pilot License or not.

20. The aforesaid exercise and decision under this order shall be taken by the Director, Social Welfare within a period of eight weeks from the date of production of certified of this order.

21. Costs made easy.