

(1975) 08 MP CK 0003

Madhya Pradesh High Court

Case No: Miscellaneous Petition No. 1105 of 1974

Dr. Mangat Ram Lalwani

APPELLANT

Vs

The Collector, Jabalpur and
Another

RESPONDENT

Date of Decision: Aug. 1, 1975

Acts Referred:

- Constitution of India, 1950 - Article 341

Citation: AIR 1976 MP 44 : (1978) ILR (MP) 950 : (1975) JLJ 688 : (1975) 20 MPLJ 715

Hon'ble Judges: R.J. Bhawe, J; J.P. Bajpai, J

Bench: Division Bench

Advocate: R.C. Mishra, for the Appellant; S.L. Saxena, Government Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Bajpai, J.

The petitioner. Dr. Mangat Ram Lalwani, is a medical practitioner residing at New Basti, Katni. Admittedly, he is a refugee from West Pakistan and has settled, on rehabilitation, at Katni, He belongs to the area of Jacobabad in Sindh.

By this petition, the petitioner seeks the relief that the order passed by the Collector (Annexure J) cancelling the certificate issued by the Tahsildar in his executive capacity, showing the petitioner as one belonging to Scheduled Caste, on the ground that the Sindhi refugees coming from West Pakistan have not been declared as members of the Scheduled Caste and that the certificate issued by the Tahsildar was wrong (be quashed). This certificate was obtained for trying to secure an admission to the M.B.B.S. course in medical colleges of this State in the category of candidates of Scheduled Caste. There are certain concessions and preferences granted for the candidates of the Scheduled Caste in respect of admission to the aforesaid colleges by this State.

The learned counsel for the petitioner has urged that the petitioner, though uses the surname "Lalwani" was of "Suryabanshi" caste in Jacobabad district in Sindh. He urged that in the school-registers maintained at Katni, there are entries showing him as one belonging to "Suryabanshi" class. He states that the entry had been made on the basis of school certificate obtained from the educational institution of Jacobabad. The learned counsel contended that because the Tahsildar had once issued the certificate, it should have been presumed that it was after necessary enquiry and the Collector was bound to put his counter-signature and he could not again probe into the matter, and also could not cancel the certificate so issued by the Tahsildar.

Such a contention cannot be accepted and no relief can be granted to the petitioner as prayed for by him in this petition. While putting his counter-signal ture on the certificate, the Collector was not prohibited from satisfying himself after making necessary enquiries as to whether the petitioner really belongs to the Scheduled Caste or sub-caste as notified under Article 341 of the Constitution of India in respect of Jabalpur district. Annexure B filed by the petitioner himself mentions at item No. (4) of Sub-clause (2) that "Chamar, Chamari, Mochi.....Survabanshi....." etc. are Scheduled Castes in the District of Jabalpur. In the return filed by the State (respondents) it has been stated that on necessary enquiry, it was found that the mention of the word "Suryabanshi" in the School records of Katni, was fictitious and the petitioner has always specifically shown himself as Sindhi-Hindu by caste. It has been stated that in the certificate issued from the educational institution, i.e. Municipal High School, Jacobabad, in Sindh district, the petitioner has been shown as belonging to "Ahuja" (Hindu) caste and there is no mention of his caste as "Suryabanshi" in the said certificate granted on 20th April 1956, in respect of Balaram Mangatram. Copy of this certificate has been filed as Annexure R-3. It is thus clear that the case put up by the petitioner is without any basis and appears to be fictitious affair for any how securing admission in medical colleges in this State by taking advantage of a certificate showing him to be of Scheduled Caste, which was issued without proper enquiries.

Now-a-days, there has been a tendency to anyhow secure admission in certain courses of technical education by taking advantage of the concessions available to the candidates of Scheduled Caste by persons who do not belong to such caste or sub-castes. The very fact that at Jacobabad (Sindh), the petitioner had disclosed himself as "Ahuja" Hindu goes to show that even if any entry has been made in the school registers at Katni, by adding the word "Suryabanshi" against the name of the petitioner, the same is without any basis and the petitioner cannot claim to be a member of the Scheduled Castes as shown in item No. 4 relating to various classes of Chamars. The certificate from the Sindhi Panchayat of Katni has also been filed by the respondents as Annexure R-1, which is signed by the President of the Sindhi Samaj of Katni, stating that the petitioner is a Sindhi Hindu of high caste. The certificate from the Principal, Higher Secondary School, Katni, also states that the

petitioner"s sons have been shown as belonging to "Ahuja" Hindu caste in the school-registers. Under these circumstances, the case of the petitioner is absolutely false. No such relief for quashing the order passed by the Collector can be granted to the petitioner by way of any writ as claimed by him. The petition is absolutely misconceived and is dismissed with costs. Counsel"s fee at Rs. 150. The amount of security deposit, if any, shall be refunded to the petitioner after deductions of costs.

R.J. Bhawe, J.

I entirely agree with my learned brother Bajpai, J. I may further add that even if it is assumed that the petitioner belonged to "Suryabanshi" caste residing in Sindh, he cannot claim to be a person belonging to "Suryabanshi" caste as a Scheduled Caste inasmuch as only Suryabanshis residing in Jabalpur District who were known as belonging to Suryabanshi caste were declared to be Scheduled Caste under the Presidential Order. All Suryabanshis residing all over India have not been declared to be belonging to Scheduled Caste. It is well known that even Kshatriyas claim their origin from the sun or the moon and they describe themselves as "Suryabanshis" or ""Chandra-banshis"; but for that reason they do not become members of the Scheduled Caste. As Baipai, J, has rightly pointed out, this is only an attempt on the part of the petitioner to secure the advantages conferred on the Scheduled Castes by falsely claiming that he belongs to that caste.

The petition fails and is dismissed with costs as directed by Baipai, J.