

(1999) 10 SC CK 0106

Supreme Court of India

Case No: Civil Appeals Nos. 5870-71 Of 19991 With Nos. 5872-74 Of 19992 And Slp (C) No. 19027 Of 1998

Nashik Diocesan Council Trust
and Another

APPELLANT

Vs

Sunita Yogesh Pandit and Others

RESPONDENT

Date of Decision: Oct. 8, 1999

Citation: (2000) 10 SCC 264

Hon'ble Judges: R. C. Lahoti, J; M. Srinivasan, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

@JUDGMENTTAG-ORDER

1. Leave granted in Special Leave Petitions (C) Nos. 14845-46 and 16161-63 of 1998.

2. Heard learned counsel for both sides.

3. In these matters, the High Court has taken the view that the writ petitioners who have approached them have proved that they are Christians and that they are entitled to be considered for admission in the educational institutions maintained by the appellants for Diploma in Education (DEd course). The writ petitioners had admittedly produced school-leaving certificates only before the appellant Institution when they applied for admission. According to the school-leaving certificates they belong to a Scheduled Caste "Hindu-Mahar". They did not produce any other document before the management to show that they are Christians as claimed by them. But in the High Court, they filed certain documents which are said to be school-leaving certificates of their respective fathers and their baptism certificates. These documents were admittedly not produced before the Management of the educational institutions. Based on the documents produced before the High Court, the latter took the view that the writ petitioners had established that they were Christians and entitled to be considered for admission in the appellant's Institution

under the minority quota.

4. We are of the opinion that the High Court is in error in going into the question whether the writ petitioners were Christians or Hindus (Scheduled Castes). Once it is found that there were certain documents which were not produced before the Institution, the High Court should have directed the writ petitioners to produce those documents before the Institution and left the matter for the decision of the Institution itself instead of deciding the question whether the writ petitioners were Hindus or Christians. The High Court has exceeded its jurisdiction in deciding that question and granting relief to the petitioners on that basis.

5. It is also submitted by the appellants that the writ petitioners had availed of certain benefits granted to Scheduled Castes by way of scholarship by the Central Government and therefore their conduct was such that they were not fit to be admitted in the educational institution maintained by the appellants. According to the learned counsel for the respondents, the scholarship availed of by the writ petitioners was only granted by the State Government irrespective of the caste and it was not Central Government scholarship. It is a matter for the respondents to prove before the appellant Institution.

6. In Writ Petitions Nos. 3230, 3233, 3234 of 1998, the High Court has proceeded on the footing that the appellants were estopped from refusing to consider the writ petitioners for admission because of a concession said to have been made by their counsel on a prior writ petition filed in the previous year. We have gone through the record. We are of the opinion that there is no such estoppel binding the appellant. It is open to the appellant to consider the cases of those writ petitioners afresh and decide whether they are fit to be admitted or not.

7. In the circumstances, we allow the appeals, set aside the judgments of the High Court and dismiss the writ petitions.

8. We direct the respondents to produce before the appellants all the relevant documents on which they place reliance to establish that they are Christians and that they had not availed of any benefits, whatsoever, on the basis that they belonged to Scheduled Castes. It is open to the appellants to consider all those documents and decide whether the respondents could be admitted to the Institutions or not, including the desirability of the admission.

9. No costs.

10. WE do not find any merit. The special leave petition is dismissed.