

**Court No. - 33**

**Case :-** WRIT - A No. - 18019 of 2022

**Petitioner :-** Km. Neelam Singh

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Rishikesh Tripathi

**Counsel for Respondent :-** C.S.C.,Ashok Kumar

**Hon'ble Ashutosh Srivastava,J.**

Heard Sri Rishi Kumar Tripathi, learned counsel for the the petitioner, learned Standing Counsel representing the State Respondent and Sri Ashok Kumar, learned counsel for Respondent Nos.2 and 3.

By means of the present writ petition, the petitioner has assailed the order dated 27.09.2022 passed by District Education Officer, Banda, whereby and wherein the contract of the petitioner as Anshkalik Anudeshak has been terminated on the ground that she belongs to Other Backward Category (OBC) and on the strength of forged certificate of SC category she has secured her appointment as Anskalik Anudeshak.

Assailing the order impugned dated 27.09.2022, the counsel for the petitioner contended that she was issued her SC category certificate by the competent authority after due verification. Learned counsel further contended that her caste certificate has not been cancelled till date and in absence of the cancellation of her caste certificate, her contractual appointment as Anskalik Anudeshak could not be terminated.

To buttress his contention, the counsel for the petitioner has relied upon the judgment of the Apex Court in the case of **Madhuri Patil Vs. Addl. Commissioner, Tribal Development**, reported in **AIR 1995 SC 94**.

Per contra, Sri Ashok Kumar, Advocate, learned counsel for the Respondent Nos.2 and 3 on the basis of the instruction received contended that the father of the petitioner, namely Sri Balgovind S/o Sri Gangaram belonged to Kadere Caste which comes in OBC category and hence, the petitioner could not claim the benefit of reservation under the SC category and her contractual appointment has been rightly terminated.

Having heard the counsel for the parties and having perused the record, this Court finds that one Ram Kishore Upadhyay anguished by lodging of the First Information Report being Case Crime No.10 of 2021, under Sections 354 (D), 504, 506,

509, 294 IPC and Section 3(2)(a) SC/ST Act and Section 67 of the Information Technology Act, 2000, moved a complaint against the petitioner alleging, *inter-alia*, that she has obtained her appointment as Anshkalik Anudeshak on the basis of forged SC certificate. It appears that a show cause notice dated 25.05.2022 was issued upon the petitioner by the District Basic Education Officer, stating the fact that on the complaint of Ram Kishore Upadhyay, the caste of the petitioner was got verified and the Tehsildar, Bharthana, Etawah has submitted the report that the petitioner belongs to Kadere Caste, which comes under the OBC category and called upon her to submit her reply before the date of hearing.

The record further reflects that the petitioner submitted her reply stating that the petitioner is permanent resident of District Etawah and on the basis of the Family Register of her father the certificate of SC category was issued to her. In light of the reply, the order impugned dated 27.09.2022 was passed by the District Basic Education Officer, Banda. Records reflect that the District Basic Education Officer, Banda, got the caste of the petitioner verified by the Tehsildar, Tehsil Bharthana, District Etawah, who has submitted the report that the father of the petitioner namely Sri Balgovind son of Sri Gangaram R/o Village Biwari Kalam, Tehsil Bharthana, Police Station Bakevar District Etawah belongs to Kadere Caste, which comes under OBC category. Bare perusal of the impugned order dated 27.09.2022 reflects that no reasons have been assigned by the Tehsildar, Tehsil Bharthana, Etawah, as to on what basis he reached to the conclusion that the father of the petitioner belonged to Kadere Caste (OBC) and not to Ghosia Caste (SC).

The fact remains that the Caste Certificate issued by the Tehsildar, Tehsil Bharthana, Etawah has not been cancelled by the competent authority till date. The District Basic Education Officer, Banda is not vested with the authority under law to ignore the Caste Certificate issued by the Competent Authority and get the caste of the petitioner verified. The District Basic Education Officer, Banda, fell into error relying upon the report of the Tehsildar, Bharthana ignoring the SC certificate of the petitioner.

In view of the above, the order dated 27.09.2022 passed by District Basic Education officer, Banda cannot be sustained and is hereby quashed. The writ petition is **allowed**. Consequence to follow. No order as to costs.

**Order Date :- 22.11.2022**

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