

State of Maharashtra

Vs

Abhay and Others

Special Leave Petition (Civil) No. 7192 of 1984

(D. A. Desai, A. N. Sen JJ)

19.10.1984

ORDER

1. We are not inclined to grant special leave in this matter. However, before we reject the same we want to make it specifically clear that the findings recorded by the High Court in the writ petition filed before it and from the judgment from which the present special leave petition arises shall remain confined and be held applicable only to the petitioner before the High Court who is respondent before us and none else. By this we mean that the certificate issued in favour of the respondent candidate shall remain valid in his favour on the footing that he qualified for the reservation. But the larger question decided by the High Court as to whether 'Halba' is a Scheduled Tribe and entitled to reservation is kept open and it would be always open to the State of Maharashtra and any other competent authority to raise that question and the same shall be dealt with on merits and not held concluded by the judgment under appeal.

2. To avoid disputes like the present one where admission is granted on a provisional certificate which is liable to be varied or cancelled at a later stage causing irreparable harm and deep frustration to the candidate who secured coveted admission on a provisional certificate but the spectre of expulsion haunts him, State of Maharashtra should devise and frame a more rational method for obtaining much in advance a certificate on the strength of which a reserved seat is claimed. The present method of issuing provisional certificate which can be invalidated at a later stage is objectionable for more than one reason. We consider it more desirable that the State of Maharashtra shall devise a proper procedure which must commence soon after the candidate clears examination by the Board at the end of Xth year in secondary school for issuing the final certificate after making whatever necessary enquiry they may want to initiate before the certificate can be granted and submitted for admission on passing Higher Secondary examination. The intending candidate may be directed to preferably make the requisite application as soon as or soon after he gets admission in XI standard. On receipt of the application, the enquiry may start as early as possible and the candidate will have to submit to such enquiry to obtain a regular certificate, whatever enquiry is to be held must be completed at least two months before the result of Higher Secondary examination is declared whereafter one becomes eligible to seek admission to a medical college. We hope that the State of Maharashtra will devise a proper scheme in this behalf. With these observations special leave petition is dismissed.

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