

## **MYSORE HIGH COURT**

K. Shantha Kumar

Vs

State of Mysore

WP. 5568 of 1969

(Sadasivayya and Chandrashekhar, JJ.)

16.12.1969

### **ORDER**

#### **Chandrashekhar, J.**

1. The petitioner was an applicant for admission to Medical Colleges in Mysore State. He claimed to belong to socially and educationally Backward Classes. The Selection Committee for admission to Medical Colleges, did not accept his claim that he belonged to such Backward Classes. As the marks secured by him were not sufficiently high for being selected for one of the unreserved seats in Medical Colleges, he was not selected. In this petition, the petitioner has impugned the decision of the Selection Committee in not treating him as belonging to socially and educationally Backward Classes.

2. In his application for admission, the petitioner stated that he was 19 years of age, that his father was one Ramiah Setty who was a 'coolly by occupation having an annual income of Rs. 450. The said Ramiah Setty has signed the application a copy of the deed of adoption dt. 10.3.1969, registered on 14.4.1969. According to this deed, the petitioner's natural father, M. Krishan Setty gave the petitioner in adoption to Ramiah Setty about 3 years prior to the date of this deed. It is also recited in this deed that the wives of Krishna Shetty and Ramiah Setty are sisters and that Ramiah Setty who has no children, brought up the petitioners.

3. In the counter-affidavit sworn to be the Chairman of the Selection Committee, it is averred that the petitioner's father, M. Krishna Shetty, is supervisor in the office of the National Extension Service at Kanakapura. The following circumstances have been mentioned in the counter-affidavit as being unusual: IN the SSLC. certificate dt. 30.5.1966, the name of the petitioner's father is given as M. Krishna Shetty. In his application for admission as well as in the affidavit accompanying that application, the petitioner's initial is mentioned as 'K' which stands for the name of his father, Krishna Shetty. The petitioner's father who was in comparatively affluent

circumstances, is stated to have given his son in adoption to a 'coolly' with a meagre income. Though the adoption is stated to have taken place in about the year 1966, the deed of adoption is stated to have taken place in about the year 1966, the deed of adoption has come into existence just three months before making the application for admission.

4. It is stated in the counter-affidavit that taking into account the above circumstances, the Selection Committee was satisfied that the adoption deed must have been brought into existence for the sole purpose of claiming a seat reserved for socially and educationally Backward Classes, and hence the petitioner's claim that he belonged to such Backward Classes, was not accepted.

5. Mr. S.K. Venkataranga Lyengar, leaned Counsel for the petitioner, did not dispute the correctness of the averments in the counter-affidavit that m. Krishna Shetty is Supervisor in Office of the National Extension Service, that his annual income exceeds Rs. 1,200/- and that this occupation also does not come within any of the five categories of occupations specified in the Government Order dated 26.7.1963 providing for reservation for socially and educationally Backward Classes. If Krishna Shetty's income and occupation are taken into account, it is clear that the petitioner cannot be regarded as belonging to such Backward Classes.

6. However, Mr. Venkataranga Iyengar Contended that as there was a registered deed of adoption, the Selection Committee could not go behind that deed and that there was also no material to doubt the truth of the adoption. It was also contended by Mr. Venkataranga Iyengar that once the petitioner was adopted, the income and occupation of the adoptive father alone are relevant and not those of the natural father, for determining whether the petitioner belongs to socially and educationally Backward Classes.

7. In spite of the numerous circumstances enumerated by the Selection Committee, as throwing a doubt about the genuineness of the adoption, we shall proceed on the assumption that there was a genuine and valid adoption of the petitioner in about the year 1966, and and we shall examine whether, in the circumstances of the case, the petitioner should be regarded as belonging to socially and educationally Backward Classes.

8. The rationale of the reservation for socially and educationally Backward Classes, under Art. 15(4) of the Constitution, is that the environmental conditions of persons belonging to such Backward Classes, are not conducive to social and educational progress, but contribute for social and educational backwardness.

9. The petitioner whose natural farther is a Supervisor in the Office of the National Extension Service, did not suffer from any environmental disadvantage till he was given in adoption at about the age of 16 years. But the environmental conditions of his upbringing for 3 years by his adoptive father who may belong to socially and educationally Backward Classes, cannot be said to destroy or nullify the advantage of the environmental conditions of his upbringing for about 16 years by his natural parents before he was given in adoption. Whatever may be the position in

regard to a boy who has been given in adoption at a comparatively early age like 4 of 5 years. in the case of the petitioner who is stated to have been given in adoption when he was about 16 years of age, and had all the while imbibed the better environmental advantage of his natural father's income and occupation it is not reasonable to hold that the income and occupation of his adoptive father and not those of his natural father that should determine whether he (the petitioner) belongs to socially and educationally Backward Classes. Any other view will lead to defeating the very purpose of reservation for such Backward Classes, by the device of adoption just before the time of applying for admission to technical and professional Colleges and Institutions, and thereby the benefit and protection to the classes of persons who really suffer from environmental disadvantages, will be whittled down.

10. In the circumstances of the present case, the decision of the Selection Committee in treating the petitioner as not belonging to socially and educationally Backward Classes, cannot be said to be unreasonable. We see no good grounds to interfere with such decision.

11. In the result, this petition fails and we dismiss the same. But, in the circumstances of this petition, we make no order as to costs.

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