

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.6477 of 2008**

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Seema Kumari Verma, daughter of Kali Charan Verma, resident of Mohalla-  
Dakshin Darwaza, P.S. Civil Lines, District- Gaya

.... .... Petitioner

Versus

1. The State of Bihar through Secretary, Personnel and Administrative Reforms  
Department, Government of Bihar, Patna
2. Bihar Public Service Commission through its Secretary, Jawaharlal Nehru  
Marg, Patna
3. Chairman, Bihar Public Service Commission, Jawaharlal Nehru Marg, Patna
4. Secretary, Bihar Public Service Commission, Jawaharlal Nehru Marg, Patna
5. Deputy Secretary-cum- Examination Controller, Bihar Public Service  
Commission, Jawaharlal Nehru Marg, Patna
6. District Magistrate, Gaya
7. Sub Divisional Officer, Sadar, Gaya

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Naresh Kumar Malhotra, Sr. Adv.  
Mr. Binod Kumar Sinha, Adv

For the Respondent/s : Mr. AC to SC-22  
Mr. Sanjay Pandey, Adv.

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**

**ORAL JUDGMENT**

**Date: 31-03-2015**

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Heard Sri Naresh Kumar Malhotra, learned Senior  
Counsel, who was assisted by Sri Binod Kumar Sinha, learned  
counsel for the petitioner, learned AC to SC-22, who has  
appeared on behalf of Respondent nos.1,6 and 7 and Sri  
Sanjay Pandey, learned counsel, who has appeared on behalf  
of Respondent nos. 2 to 5/Bihar Public Service Commission.

**2.** The petitioner, invoking writ jurisdiction of this  
Court under Article 226 of the Constitution of Indian has

prayed for issuance of appropriate writ directing the Respondents to appoint her on the post of Child Development Project Officer as OBC category lady candidate.

3. Short fact of the case is that pursuant to advertisement No.34/2005 published on 30.04.2005 for the competitive examination for Child Development Project Officer, 2005 and applications were invited, the petitioner claiming to be a candidate of OBC lady candidate submitted her application in appropriate proforma. For the said post, initially a preliminary test was held, in which she qualified. Thereafter, she appeared in the written examination. After being qualified in the written examination, the petitioner was called for interview vide Annexure-3 to the writ petition. The date of interview was fixed to 15<sup>th</sup> September, 2007. It has been claimed that the petitioner appeared in interview and produced relevant certificates. However, on the date of interview, she was not having certificate to claim that she was out of the Creamy Layer. The said certificate was subsequently issued on 20.09.2007 i.e. after the date of interview and was produced before the Commission. However, in the final result, the name of the petitioner was not included. Thereafter, the petitioner applied for marks and she



was surprised to know that she was treated as a General Category candidate, whereas initially she had claimed as OBC candidate. Since the petitioner had applied for appointment against OBC category and she had already secured 245 marks, which was obtained by last candidate selected against OBC candidate, the non-inclusion of the petitioner in the select list was not justified. It has been categorically argued that right from the very beginning, the petitioner had claimed that she was under the category of OBC and she has also produced caste certificate at the initial stage and even at the time of interview. However, it has been accepted that so far as certificate of creamy layer is concerned, the said certificate was obtained by the petitioner after the date of interview, which she subsequently produced.

4. Sri Malhotra, learned Senior Counsel appearing on behalf of the petitioner has placed reliance on Annexure-8 to the writ petition i.e. order dated 10.12.2007 passed in C.W.J.C.No.13222 of 2007; Kanchan Mala Vs. State of Bihar & Ors and order dated 19.02.2008 passed in C.W.J.C.No.14106 of 2007 ( Sushmita Vs. The State of Bihar and Ors. By way of referring to order dated 19.02.2008 passed in C.W.J.C.No.14106 of 2007, it has been argued that



the petitioner of the said case had similarly submitted certificate issued by the competent authority i.e. the District Magistrate, after the date of interview and the claim of the petitioner of the said case was accepted. It has been submitted that she was not recommended by the Bihar Public Service Commission, however this Court allowed the writ petition directing the Respondents to consider the status of the petitioner as a backward category candidate and take appropriate decision regarding her claim. It has also been argued that in similar manner the case of Kanchan Mala vide C.W.J.C.No.14106 of 2007 was allowed. Accordingly, it was submitted that on the ground of parity, the petitioner deserves the same relief, which has been granted to other persons, who had approached this Court earlier.

5. Sri Sanjay Pandey, learned counsel appearing on behalf of Respondent/Bihar Public Service Commission has opposed the prayer of the petitioner. By way referring to the statements made in the counter affidavit, he has distinguished the case of the petitioner to the case of Kanchan Mala as well as Sushmita i.e. orders passed in C.W.J.C.No.13222 of 2007 and C.W.J.C.No.14106 of 2007. He submits that in the said case the petitioners had already submitted caste certificate as



well as certificate to the extent of creamy layer. However, in the case of Sushmita, since certificates were earlier issued by the Sub Divisional Officer and subsequently certificate was issued by the competent authority, this Court had interfered with the matter. So far as the case of the petitioner is concerned, Sri Pandey has argued that though the petitioner had claimed her candidature under the category of OBC, she had never produced certificate regarding creamy layer at least till the date of interview. Only caste certificate, that too, issued by the Block Development Officer, was initially brought on record by the petitioner, whereas as per advertisement, the certificate was to be issued either by the District Magistrate or by an officer authorised by the District Magistrate i.e. the Additional District Magistrate. He further submits that the issue, which has been raised in the present case, has already been set at rest by a Division Bench of this Court in L.P.A. No. 650 of 2010. The said order has been brought on record as Annexure-H to the counter affidavit. He submits that since the issue, which has been raised in the present writ petition, has already been set at rest by a Division Bench of this Court, the petitioner does not deserve for appointment under the category of OBC candidate.



6. Besides hearing learned counsel for the parties, I have also perused the materials available on record. At the time of hearing of writ petition, pointedly this Court asked Sri Malhotra, learned Senior Counsel for the petitioner as to whether the petitioner had earlier submitted her certificate in respect of creamy layer, it was replied in negative. Meaning thereby, the petitioner accepts that she had not submitted certificate in respect of creamy layer at least till the date of interview i.e. 15.09.2007. Of course, the petitioner has brought on record the certificate issued from the office of the District Magistrate, but it was issued on 20.09.2007, which clarifies that the petitioner was not out of the category of creamy layer. So far the point raised in the present writ petition as to whether the certificate, which was required to be produced at least till the date of interview, was required to be entertained after the date of interview is concerned, same was considered by a Full Bench of this Court in a case reported in 1998 (3) PLJR 35 ( Braj Kishore Prasad & Ors Vs. State of Bihar & Ors). The Full Bench in case of Braj Kishore Prasad in para-26 has held that “documents/supporting documents cannot be received after the last date and has to be rejected by the selecting authority”. Following the proposition of law the



Division Bench recently in respect of same advertisement in L.P.A. No.650 of 2010 has held that such certificates were required to be entertained only upto to the last date of interview. On perusal of Annexure-3 to the writ petition i.e. interview letter, it is evident that in paragraph-6 of the interview letter, in clear word, it was directed to produce all the certificates in respect of claim of OBC with creamy layer certificate on the date of interview. It is admitted case that on the date of interview in respect of creamy layer certificate was not produced, which was obtained by the petitioner after interview. The interview was held on 15.09.2007 and the certificate was issued on 21.09.2007. In view of proposition of law settled by the Full Bench, which had been followed by a Division Bench, the Court is of the opinion that the petitioner may not get any benefit from Annexure-8 to the writ petition. Moreover, in the case of Sushmita i.e. C.W.J.C.No.14106 of 2007), the petitioner of the said case, right from the very beginning , had produced caste certificate as well as certificate in respect of creamy layer . Of course, the certificate was issued by the Sub Divisional Officer and not by the District Magistrate, but subsequently, one day after the date of interview certificate was issued by the then

District Magistrate. Accordingly, the petitioner’s case does not come at par with the case of Annexure-8 to the writ petition.

7. Keeping in view the fact that the dispute raised in the present writ petition, which has already been set at rest by a Division Bench vide Annexure-H to the counter affidavit in respect of same examination, there is no reason to pass any positive order in favour of the petitioner.

8. The writ petition stands dismissed.

**(Rakesh Kumar, J)**

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