

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

CWP No.5654 of 2013

Date of Decision: 20.07.2015

Rajvakil Singh

....Petitioner

Versus

U.T. Chandigarh Admn. & another

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. Davinder Lubana, Advocate
for the petitioner.

Mr. Sanjeev Sharma, Sr. Advocate
with Ms. Bhavna Joshi, Advocate
for the respondents.

DAYA CHAUDHARY, J.

The prayer made in the present petition is for issuance of a direction to the respondents to consider the claim of the petitioner for the post of JBT teacher, published vide advertisement (Annexure P-1) under reserved category of 'other backward class' as he belongs to "NAI" caste, which falls in said category.

Learned counsel for the petitioner submits that total 654 posts of JBT teachers were advertised under the "Sarva Shiksha Abhiyan" and the applications, in this regard, were invited online from 11.09.2012 to 03.10.2012. He further submits that the petitioner was having the requisite qualifications and was also fulfilling other terms and conditions of the advertisement. He applied against 'OBC' category and a certificate,

showing his caste, was also annexed with the application form. The caste of the petitioner "NAI" falls under the "OBC" category at serial No.29 of the list issued by the Haryana Government. He was called for verification of his documents but his name was not found in the list of "OBC" category. The marks secured by the petitioner were 63.5718 and the marks secured by the last candidate were 62.9919. The petitioner made a representation, wherein, it was mentioned that he is "NAI" by caste and the same has been recognized by the State of Haryana. His claim was rejected only on the ground that there was a difference of spellings in "NAI" and "NAIS". Learned counsel also submits that the caste "NAI" and "NAIS" are the one and same caste and claim of the petitioner has wrongly been rejected.

Learned counsel for the petitioner also submits that it was brought to the notice of Chandigarh Administration that the "OBC" certificate was issued in case of one candidate, namely, Baljit Singh and his caste was shown as "NAI". He further submits that the petitioner was fully eligible as he has secured more marks than the last candidate but because of mistake in the spellings of caste, he has not been selected and appointed on the said post. A legal notice was also served upon the respondents, to which, a reply was furnished, stating therein that the caste "NAIS" is different from caste "NAI" and the case of the petitioner cannot be considered being of a different caste. Learned counsel for the petitioner has relied upon the judgment of this Court in case ***Rajbir Singh and another vs Chandigarh Administration and others*** CWP No.26092 of 2012, decided on **25.10.2013**.

Learned counsel further submits that the case of present petitioner is squarely covered by aforesaid judgment as in that case also, the petitioner was "NAI" by caste like the petitioner in the present petition and the said writ petition was allowed by this Court.

Learned counsel for the respondents submits that the Department of Personnel, Chandigarh Administration had issued instructions vide memo No.27/4/1994-1H(7)/2003/23827 dated 23.12.2003 regarding the benefit of reservation for SC/ST/OBC in Civil Posts and Services, wherein, it has been mentioned that the benefit of reservation to the OBC category would be extended on the pattern of the Central government, wherein, OBCs would have to be included in the Central list as well as in the list of Union Territory, Chandigarh. In the said memo, caste "NAIS" has been mentioned at Serial No.19 but the "OBC" certificate submitted by the petitioner reflects that the petitioner belongs to "NAI" caste. The caste "NAI" is reflected in the Central list but not in the list of Union Territory, Chandigarh. This matter was taken up by the Society, where there was a difference of spellings in the Central list or U.T list. It was clarified by the Department of Social Welfare in November, 2012 that there may be number of synonymous/sub-castes of any caste of OBC existing in different States but the cases of those candidates are to be considered, where, the spellings of caste are same as mentioned in the list of "OBC" meant for Union Territory, Chandigarh. Learned counsel also submits that the certificate of the petitioner shows that he belongs to "NAI" caste but in the list of Union Territory, Chandigarh, it has been mentioned as "NAIS" and hence, the petitioner is not entitled for reservation of "OBC"

Learned counsel for the respondents-U.T. Chandigarh has relied upon the judgment of Hon'ble the Apex Court in case ***State of Uttaranchal vs Sandeep Kumar Singh and others 2010(12) SCC 794***, in support of his arguments.

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file.

Admittedly, the petitioner applied against the "OBC" category

and his claim has been rejected only on the ground that in the certificate of “OBC”, his caste has been mentioned as “NAI”, whereas, in the list of Union Territory, Chandigarh, it is reflected as “NAIS”. The same controversy was raised in **CWP No.26092 of 2012** titled as **Rajbir Singh and another vs Chandigarh Administration and others**” as well as in **CWP No.16627 of 2013** titled as **Rajesh Kumar vs U.T. Administration and others.**” The said writ petitions were allowed by this Court on **25.10.2013** and a direction was issued to the respondents to consider the case of the petitioner for appointment based on the Caste Certificates (OBC) furnished by them in support of their candidature as legal and valid. The same objection was raised by U.T. Administration as claim of the petitioners in those cases was rejected on the ground that in the list of “OBC”, the caste “NAIS” was mentioned at serial number 19. The relevant portion of the said judgment is reproduced as under :-

“CWP No.26092 of 2012

Resultantly, a direction is issued to the respondents to consider the case of the petitioners for appointment based on the Caste Certificates (OBC) furnished by them in support of their candidature as legal and valid. Let the exercise be now done within 30 days from the date of receipt of a certified copy of this order and fresh consideration be done in terms of this order. It is clarified that the cases of the petitioners be considered by treating the caste certificates legal and valid for the purpose of appointments, but subject to other formalities which are required by law and the rules to be adhered to and if they are otherwise eligible and suitable for appointment.

CWP No. 16627 of 2013

Learned counsel appearing in this writ petition has drawn the attention of this Court to an order passed by the learned Single Bench of this Court in CWP No.12570 of 2013 decided on 31.5.2013. In that writ petition, the

view taken by the respondents was assailed, but a direction was issued to the respondents to take a final decision on the legal notice dated 15.5.2013. As an aftermath of that order, the respondents have passed the order dated 11.6.2013 (Annexure P-17) rejecting the claim for appointment based on the same irrational reasoning which has been nullified by this court as above. In this view of the matter, the impugned order dated 11.6.2013 (P-17) is hereby quashed.

For the foregoing reasons, both the writ petitions are allowed in the above terms.”

In view of the facts as mentioned above, it is apparent that the controversy in the case, in hand, is squarely covered by judgments passed in **CWP No.26092 of 2012** and **CWP No.16627 of 2013.**

Accordingly, the present petition is allowed and the respondents are directed to consider the case of the petitioner for appointment to the post of JBT teacher within a period of one month from the date of receipt of certified copy of this order.

20.07.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE