

CWP-11047-2015

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

CWP-11047-2015

Date of Decision: 08.04.2016

Pawandeep Kaur

... Petitioner(s)

Versus

Union of India and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. S.D.Sharma, Sr. Advocate with
Mr. Sanjiv Pandit, Advocate,
for the petitioner.

Mr. O.P. Dabla, Sr. Panel Counsel for
U.O.I.

Mr. Ashish Kapoor, Advocate,
for respondent No.3.

Mr. Raman Sharma, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of
the Constitution of India for issuance of a writ in the nature of certiorari
for quashing the advertisement dated 26.10.2013 (Annexure P-2) to the

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extent that the same is absolutely contrary to the quota fixed for the Other Backward Classes (for brevity, 'OBC') category as provided in the guidelines (Annexure P-3) issued by respondent No.1 regarding reservation of various locations for different categories.

Brief facts of the case are to the effect that the petitioner applied for LPG Dealership in the State of Punjab under 'OBC' category, however, she remained unsuccessful and thereafter filed the present petition on the ground that there is 27% reservation for the 'OBC' category. However, vide impugned advertisement dated 26.10.2013 (Annexure P-2), total 198 locations were advertised out of which 46 have been reserved for the 'OBC' category, in fact, it should have been 53. The impugned advertisement is contrary to the guidelines (Annexure P-3) issued by respondent No.1.

In pursuance of notice of motion, respondent No.4 filed written statement denying the averments made in petition. A relevant extract of para no.1 of preliminary objections of written statement of respondent No.4 reads as under:

“.....It is submitted that advertisement Annexure P-2 on industry basis has been released in the State of Punjab for a total of 198 locations out of which the total number of locations advertised from the earlier marketing plans and on account of terminated distributors is 29. Therefore, the total new locations advertised under the marketing plan 2013-14 are only 169. The OBC category has been given 27%

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reservations as explained fully in the brochure, Annexure P-3. Out of these 169 locations, 46 locations have been advertised under SC/ST category as per prescribed reservation percentage, 38 have been advertised for SC/ST category for which the percentage works out of 22.5%, 7 locations have been advertised under Combined Category (CC) consisting of Physically Handicapped Personnel (PH), Outstanding Sports persons (OSP), Freedom Fighter (FF) for which the percentage works out of 4% which is in line with respective norms prescribed in the selection guidelines.”

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contends that 198 locations were advertised vide impugned advertisement dated 26.10.2013 (Annexure P-2), however, adequate number of locations have not been reserved for the 'OBC' category as per the reservation policy and guidelines (Annexure P-3) issued by respondent No.3. There is 27% reservation for the 'OBC' category and in this manner, 53 locations should have been reserved for the 'OBC' category instead of 46 as mentioned in the impugned advertisement. Learned counsel further contends that reservation should be calculated on the total number of locations advertised i.e. 198.

Per contra, learned counsel for the respondents vehemently oppose the contentions of learned counsel for the petitioner and contend

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that actually, 169 locations have been advertised for the marketing plan year 2013-14 and 29 locations from the previous marketing years 2011-12, 2004-07 and 1999-2000 have been advertised against the terminated locations. The benefit of reservation for those locations have been given in the relevant years. They further contend that reservation is carried out according to the locations advertised in the marketing year. In this manner, the reservation cannot be made for the locations which are of the previous years as reservation for those years were already given in the relevant years. The reservation will be only for the locations advertised for the year 2013-14 and in this manner, out of 169 locations, 46 locations have been rightly given for the 'OBC' category. So far as the terminated advertisements are concerned, they are for the same category for which they have been terminated.

I have considered the rival contentions of learned counsel for the parties.

Perusal of advertisement reveals that out of 198 locations, 29 locations pertain to the previous marketing years i.e. 2011-12, 2004-07 and 1999-2000. In fact, 169 locations have been advertised for the marketing year 2013-14. Therefore, 46 locations have been correctly reserved for the OBC category after giving 27% reservation. The petitioner is not entitled for the reservation against the locations of the previous marketing years as reservation for these years was given at the time of advertisement of locations in that years. The reservation is to be

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considered for the locations advertised for the year 2013-14 only which comes to 46. No reservation is permissible in the advertisement of previous marketing years and those locations will be for the categories for which the same have become vacant.

In view of above, I do not find any merit in the present petition.

Dismissed.

Costs made easy.

08.04.2016

seema/parveen kumar

(Paramjeet Singh Dhaliwal)
Judge