

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7923 of 2010

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Ravindra Kishor, S/O Shri Madan Prasad, 26, Gokul Marg, North, S.K. Puri, P.S.-
S.K. Puri, Patna-800013.

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Chief Secretary, Govt. Of Bihar, Patna.
2. The Chief Secretary, Govt. Of Bihar, Patna.
3. The Principal Secretary, Department Of Personal And Administrative Reforms,
Govt. Of Bihar, Patna.
4. Bihar Staff Selection Commission Through Its Secretary, Post- Veterinary
College Patna.-14.
5. The Secretary, Bihar Staff Selection Commission, Post- Veterinary College
Patna.-14.
6. The Controller Of Examination, Bihar Staff Selection Commission, Post-
Veterinary College Patna.-14.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratuesh Prasad Singh, Adv.
For the B.S.S.C. : Mr. Prabhat Kumar Singh, Adv.
For the State : Mr. Manoj Kumar Yadav, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-12-2017

Heard learned counsel for the petitioner and counsel for
the State as also counsel for the Staff Selection Commission.

The petitioner is aggrieved on account of non-selection
on the post of Driver which he has applied against the Advertisement
No. 1605/2005.

The petitioner belongs to the backward community, had
applied against the advertisement mentioned herein above for the post
of Driver, total post of Driver was notified as 231 out of which 99 was
reserved for General, 48 for Schedule Caste, 14 for Scheduled Tribe,



39 for the Most Backward Class, 22 for the Backward Class and 9 for the Backward Women Class. The petitioner had appeared in the written examination, was declared successful, had appeared in the practical examination, in the final result, the name of the petitioner was not mentioned. When applied, an information was supplied that that he had not produced the caste certificate issued by the proper authority at the time of interview.

In the present case, learned counsel for the petitioner has submitted that the advertisement (Annexure-1) in column-6, it provides in what manner the form has to be filled up as per instruction. Clause 11 and Clause 12 of the Instruction stipulates the manner the form to be filled up. On that basis, learned counsel for the petitioner has submitted that there was no necessity to attach the certificate along with the application form because Column-11 specifically mentions that the certificates were not required to be attached and further said that at the time of interview, he produced the certificate of Block Development Officer and later on he produced the certificate issued by the District Magistrate contained in Annexure-20 and, as such, he acted in terms of the instruction mentioned in the advertisement.

There was/is no flaw to treat the petitioner in the category of the Backward Class. It is not in doubt that if the petitioner



is treated as a general caste candidate, certainly he cannot qualify neither in the written test nor in the practical test but the moment if he is treated to be a member of the Backward Class, then he qualifies in both the tests. The question in the present case is whether the petitioner can be treated to be member of the Backward Class for the purpose of appointment as per advertisement which is the question for consideration as the learned counsel for the Staff Selection Board has submitted that in terms of the instruction and the advertisement, he was required to produce the certificate as and when was required to place the same, in case of failure, the candidate will be treated to be General Candidate and if he qualifies in that category only then he will be taken into consideration for selection. He has further submitted that as per circular issued by the Government of Bihar dated 25.3.1996, it has been specifically mentioned that the authority competent for issuance of the caste certificate the District Magistrate on the recommendation of the S.D.O. will be the competent authority for treating the person belonging to that very category. Any certificate issued by the B.D.O. does not create authenticity of the caste holder of such certificate. In support of his submission, learned counsel for the Commission has placed reliance on three judgments in the case of *Braj Kishore Prasad & Ors. Vs. State of Bihar & Ors.* reported in 1998 (3) PLJR 34, *Harish Chandra Patel Vs. The State of Bihar* : 2012(1) PLJR 397 and *Tar*



Babu Yadav S/o Shiv Shankar Yadav Vs. The State of Bihar & Ors. : 2011 (4) PLJR 185 and on that basis, he has submitted that if the candidate fails to produce the requisite certificate on and before the fixed day, even if he produced the certificate later on is of no consequence. Sine qua non is that he would produce the certificate on the date fixed, failure to place, will make him disentitled to take the benefit of reservation policy.

Learned counsel for the petitioner in reply has submitted that this is a beneficial measure and it should not be taken too strictly to defeat its purpose. The only purpose of the certificate is verification and the satisfaction of the authority that he belongs to a particular caste and if satisfies that he belongs to a particular caste, he cannot be deprived of the benefit. In support of his submission, he has placed reliance on the judgment passed in the case of *Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board & Ors.* reported in (2016) 4 SCC 754.

In the present case, admittedly the petitioner failed to submit the caste certificate issued by the competent authority on the fixed date, in failure to produce the same, he has been treated to be a member of the General caste. The judgment of this Court passed in the case of *Braj Kishore Prasad & Ors. Vs. State of Bihar & Ors.* reported in 1998 (3) PLJR 34 makes it amply clear that the candidate concerned is



required to submit all testimonies on and before the appropriate date.

It is relevant to quote paragraph no.26 of the aforesaid case which reads as follows:-

- “26. *Having regard to all these considerations, I hold that:*
- (a) Where the advertisement specifies the last date for filing of supporting or other documents, that date must be given effect to, and any document received after such date shall be rejected by the selecting authority.*
 - (b) In appropriate cases where the selecting authority is of the view that the time for furnishing of documents should be extended, it may grant such extension by issuing a public notice to this effect so that all candidates may get the benefit of such extension. In the absence of any such extension granted by the selecting authority, the date/dates mentioned in the advertisement should be treated to be the last date for filing of documents, and no document shall be accepted thereafter.*
 - (c) No application/document shall be entertained by the Commission if the same is filed after the last date specified in the advertisement, or the extended date notified by the Commission, even if the same is filed before the finalisation of the select list.*
 - (d) In appropriate cases where this Court is satisfied that a case of extreme hardship or injustice has resulted on account of factors beyond the control of the concerned candidate this Court in exercise of its writ jurisdiction may grant relief in deserving cases. But in doing so, the Court must be satisfied that the candidate concerned has acted diligently, and is not guilty of delay or laches in taking necessary steps for procuring the requisite certificates etc. However, no relief shall be granted where the requisite certificate is produced for the first*



time after the process of selection is complete and the selecting authority has made its recommendation.”

Clause 11 & 12 of the Instruction makes it very clear that along with the application, no document is required to be attached but the conjoint reading of both the clauses, on demand of the testimony, fails to produce the same, the candidature will be rejected. So, in the present case, the only dispute has been involved that whether the consideration of the petitioner treated to have been belonging to the General caste is correct, legal or incorrect, requires interference. The Circular issued by the State of Bihar itself defines who will be competent person to issue caste certificate. Admittedly, the District Magistrate on the recommendation of the S.D.O. is the appropriate authority for caste certificate, any submission of his caste after the due date losses its significance.

In view of the judgment passed in the case of Braj Kishore Prasad (supra), this Court is of the view that the petitioner has failed to made out the case in his favour. Accordingly, this Court does not find any merit in this writ application and the same is dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2017
Transmission Date	NA

