

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6476 of 2008

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Abhishek Kumar, son of Siyaram Sharma, resident of village Dudhaila, P.S. Sultanganj, District Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary to the Government, Old Secretariat, Patna.
2. Bihar Public Service Commission through its Secretary having his office at Bailey Road, Patna.
3. The Secretary, Personnel & Administrative Reforms Department, Govt. of Bihar, Patna.
4. The District Magistrate, Patna.

.... Respondents

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Appearance:

For the Petitioner	:	Mr. Awadhesh Kumar Mishra Mr. Ujwal Kumar, Ms. Sandhya Sharma, Advocates
For the State	:	Mr. Mukund Mohan Sharma, AC to GP 27
For the BPSC	:	Mr. Kumar Brajendra Nath, Mr. Subodh Chandra Jha, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-07-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing the bottom head note (i) of the result published by Bihar Public Service Commission (hereinafter referred to as the "Commission") for the competitive examination, 1998 published in daily newspaper 'Hindustan' and 'Dainik Jaagran' dated 08.05.2007 whereby and whereunder the petitioner has not been treated in the category of Most Backward Class and his result has not been published; and for



connected reliefs.

3. The short facts of the case, according to the petitioner, are that the petitioner is a Graduate belonging to the Most Backward Class and pursuant to advertisement no. 50 of 1998 published in daily newspaper 'Hindustan' dated 26.01.1998 for appointment to Class III post, he submitted his application along with requisite academic certificates which was accepted by the Commission. He duly passed the preliminary examination and was issued Admit Card for appearing in the final examination. He accordingly appeared in the final written examination conducted by the respondent-Commission and the result of the said examination was published on 08.05.2007 in the daily newspaper 'Dainik Jaagran'. It however transpires that the petitioner's result was not published and he was not treated in the reserved category in absence of a caste certificate issued by the District Magistrate or the Additional Collector authorized by him.

4. Learned counsel for the petitioner submits that the caste certificate issued by the Sub-divisional Officer (Anenxure-1) was submitted by the petitioner and accepted as such, which is evident from the fact that the petitioner was permitted to sit in the preliminary examination and was also issued Admit Card permitting him to appear in the final written examination. It is further pointed out that the General Administration Department of the Government of Bihar has since also issued a circular pursuant to guidelines contained in memo



no. 673 dated 08.03.2011 according to which the caste certificate issued by the Circle Officer would be valid in matters of appointment. The new guidelines were effective from 08.03.2011, but it was clarified that certificates issued in the past would also be admissible. It is thus submitted that the petitioner's caste certificate having been issued by an officer higher in rank than the Circle Officer, stood validated in view of the retrospectivity granted in the guidelines. Learned counsel for the petitioner also relies on a Government circular no. 11/Aa.1-102/82-84 ka dated 02.02.1982 referred to in the judgment of this Court dated 21.04.2011 in L.P.A. No. 416 of 2009 (Rajesh Kumar vs. the State of Bihar and others and analogous cases) to submit that in addition to the District Magistrate, other officers namely, Sub-divisional Officer, Project Executive Officer, Assistant Project Executive Officer, Block Welfare Officer, Block Development Officer, Circle Officer, Ist Class Magistrate, District Welfare Officer and Sub-divisional Welfare Officer were also authorized to issue caste certificates for the purpose of benefit of reservation. It is therefore, submitted that in the present case, the caste certificate having been issued by the Sub-divisional Officer was valid for the purpose of grant of benefit of reservation and the petitioner deserved to be appointed on the Class III post.

5. Learned counsel for the respondents on the other hand, vehemently opposes the writ petition submitting that the petitioner has rightly been denied the benefit of reservation in absence of a valid



caste certificate. It is pointed out that in terms of the advertisement itself the petitioner was required to submit his caste certificate issued by the District Magistrate or the Additional Collector authorized by him. This mandatory condition has not been complied with by the petitioner. In any event, it is also stated that before filing of application forms for the main written examination, the successful candidates of preliminary tests were required by the Commission through a Press Communiqué by way of "Important Notice" in various newspapers to submit the caste certificate (with creamy layer) issued by the District Magistrate along with their application forms for appearing in the main written examination. These documents were required to be filed on 30.07.2003/31.07.2003, whereafter the main written examination was held on 13.09.2003 and 14.09.2003, results whereof were published on 08.05.2007 as aforesaid. It is submitted that the petitioner did not comply with the requirement of the Press Communiqué and failed to furnish the proper caste certificate by reason of which he was treated as a candidate of General Category. As regards the orders passed in LPA No. 416 of 2009 and analogous cases, it is submitted that the petitioner's reliance on the same is completely misconceived. The Government circular dated 02.02.1982 in question specifically provided that for the purpose of appointment the caste certificate issued only by the District Magistrate would be admissible and any caste certificate issued by the other officials enumerated therein would



be considered only if these were verified and countersigned by the District Magistrate. The petitioner has admittedly not satisfied these conditions either, and as such no fault can be found with the action of the respondent-Commission in denying the benefit of reservation to the petitioner.

6. Having heard the parties and on consideration of the materials on record, this Court does not find merit in the writ petition. According to the advertisement, the petitioner was required to furnish his caste certificate issued by the District Magistrate or the Additional Collector duly authorized by him. It is an admitted fact of record that the petitioner submitted his caste certificate issued by the Sub-divisional Officer and hence did not fulfill the requirement of the advertisement. It is also not in dispute that prior to the main written examination, the Press Communiqué had been issued by the respondent-Commission calling upon the candidates to furnish proper caste certificates issued by the District Magistrate within the stipulated time, which however, was also not complied with by the petitioner. The circular dated 02.02.1982 does not also come to the aid of the petitioner as the caste certificate has not been verified and countersigned by the District Magistrate. Moreover, the judgment of this Court in L.P.A. No. 416 of 2009 would not be applicable in the present case inasmuch as it has been observed by the Division Bench therein that no material was produced on behalf of the respondent



authorities to show that the certificates produced by the appellants were not in accordance with the advertisement and hence it was opined that the said certificates were in force. In the instant case the caste certificate produced by the petitioner clearly does not satisfy the requirement of the advertisement. The circular of the General Administration Department (Annexure-5) is also not applicable and the same cannot apply retrospectively in respect of an advertisement and in terms of which selection process had already been completed as informed by learned counsel for the Respondent-Commission.

7. This Court, therefore, does not find any infirmity in the action of the respondents in denying the benefit of reservation to the petitioner while publishing the result of the main written examination.

8. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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