

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.25247 OF 2017

ORDER :

This writ petition is filed seeking writ of Certiorari to call for the orders pertaining to Rc.No.117/Rect./Admn.1/2017 dated 05.07.2017 and declare the action of the respondents in rejecting the representation of the petitioner to change the caste field in the application form from 'OC' to 'BC-C' Non-creamy layer as illegal and arbitrary and consequently to direct the 2nd respondent to change the caste field and treat the petitioner's case as BC-C Non-Creamy layer for the purpose of filling up the notified posts issued by the 2nd respondent and declare the results accordingly.

It is the case of the petitioner that he belongs to BC-C community. He applied for the post of S.I of Police (Civil) in response to notification vide Rc.01/Rect/Admn.1/2016, dated 06.02.2016 under OC category as he did not have the requisite Caste Certificate from the competent authority i.e., Tahsildar-cum-Mandal Revenue Officer at the time of submitting the application, as the last date of submitting the application was 03.03.2016. The petitioner appeared in the Preliminary Written Test, Physical Measurement Test, Physical Efficiency Test (PET) and has successfully qualified

in the above tests. He had written Final Written Examination (FWE) conducted on 19.11.2016 and 20.11.2016 and the results of all the papers are yet to be announced. Subsequently, petitioner applied for the Caste Certificate before the competent authority-Tahsildar, who in turn issued the same on 09.03.2017. Thereafter, he applied to the concerned authorities for issuance of Income Certificate which was issued on 18.03.2017; that on the very same day, he applied to the authorities for issuing OBC certificate which is issued for the purpose of showing that the person does not belong to creamy layer as per G.O.Ms.No.3 (BCW) dated 04.09.2006 and the same was given to him on 25.03.2017. After obtaining the Caste Certificate and Income Certificate, he approached the 2nd respondent to change the caste particulars in his application and treat him as BC-C Non-Creamy Layer on the strength of the Caste Certificate and Income Certificate given by the competent authorities; that the 2nd respondent given press releases on 17.08.2016 and 29.11.2016 to the affect that the qualifying candidates can make changes in the application form after the Final Written Examination and an opportunity was given to the candidates to change any of the fields till 12.01.2017, but the petitioner could not apply for the change of the fields as he did not have the requisite certificates in hand and apply for the change of his

particulars in the application form. Though, he applied to the 2nd respondent for change of his caste in the application form on 10.03.2017, 23.03.2017 and also on 27.03.2017, there was no response from the 2nd respondent. Aggrieved by the same, he filed W.P.No.12575 of 2017 and during the pendency of the said writ petition, the impugned order has been passed and on that the said writ petition was withdrawn with leave to challenge the said proceedings. Aggrieved by the action of the 2nd respondent in not considering his application for change of his caste in the application form, the present writ petition is filed.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Services.

Learned counsel for the petitioner submits that the ground for rejection of the application of the petitioner is that the marks of Paper I and Paper II were declared on 15.12.2016, but the respondents themselves have issued press release on 09.01.2017 giving an opportunity to the applicants to change any fields in the application till 12.01.2017, as such, that cannot be a ground to reject the application of the petitioner. In support of his contention, he relied on the judgment reported in **Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board and another**¹ stating that the Hon'ble Apex Court confirmed the orders of the learned

¹ (2016) 4 Supreme Court Cases 754

Single Judge while reversing the orders of the Division Bench, wherein the learned Single Judge held that the petitioners therein were entitled to submit the OBC certificate before the provisional selection list was published to claim the benefit of the reservation of OBC category, as such, the action of the respondents in rejecting the application of the petitioner in changing the status of his caste from OC to BC-C category is illegal.

It is to be seen that the impugned Memorandum dated 05.07.2017 was issued by the 2nd respondent on the application of the petitioner for change of status of caste from OC to BC-C basing on the certificates issued by the competent authorities dated 09.03.2017. The only ground on which the application of the petitioner was rejected is that the already marks of Paper I and Paper II were declared on 15.12.2016. But the respondent authorities have issued a press release dated 09.01.2017 permitting the candidates for changing the status in the application form till 12.01.2017 midnight.

It is pertinent to note that in almost similar circumstances, the Hon'ble Supreme Court affirmed the order of the learned Single Judge by reversing the order of the Division Bench, wherein the learned Single Judge directed that the petitioners therein were entitled to submit the OBC certificate before the provisional selection list was

published to claim the benefit of the reservation of OBC category. In view of the principle laid down by the Hon'ble Supreme Court, the action of the 2nd respondent in rejecting the application of the petitioner for changing the status of his caste from OC to BC-C category is not correct.

In view of above facts and circumstances, the impugned order of the 2nd respondent dated in Rc.No.117/Rect./Admn.1/2017 dated 05.07.2017 is set aside and the respondents are directed to entertain the application of the petitioner for change of his caste status from OC to 'BC-C' and take action accordingly.

With the above direction, this writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition, shall stand disposed of.

A.RAJASHEKER REDDY,J

31-07-2017

Note: Issue CC tomorrow.
B/o.kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.25247 OF 2017



Date: 31.07.2017

kvs