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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7206/2014 and CM No. 16937/2014

MANDIRA RAO (MINOR) & ANR THROUGH
RAO RANJIT

..... Petitioner

Through: Father of the petitioners in person.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Ms Suparna Srivastava and Mr
Tushar Mathur, Advocates for R-1 &
R-2.
Mr Saorabh Chadda and Mr Ishan
Kashyap, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.07.2017

1. The petitioners -who are minors - have filed the present petition, through their father, *inter alia*, praying as under:-

- "i) A writ of mandamus directing the respondents no 3 to 5 to issue the Other Backward Class (OBC) Certificate as belonging to Creamy Layer to the petitioners and/or
- ii) A writ of mandamus directing the respondents no 3 to 5 to issue a Certificate to the petitioners that they belong to Yadav Caste which is a Other Backward Class (OBC)and/or
- iii) An appropriate writ order or direction directing respondents no 1 and 2 to issue necessary directions to make suitable amendments in their guidelines/forms that officials similarly situated like Respondents 3 to 5 may on receipt of applications complete in all respects may

issue Other Backward Class (OBC) Certificate as belonging to Creamy Layer to the petitioners and/or

- iv) Any appropriate writ order or direction may be issued to Respondents no 1 and 2 to issue appropriate directions to all necessary concerned authorities that in applications seeking Other Backward Class (OBC) status apart from asking as to whether a person similarly placed as the petitioner belongs to Other Backward Caste(OBC) or not, a further necessary question should be as to whether or not even though belonging to Other Backward Caste(OBC) as to whether he or she belongs to Creamy Layer in the Other Backward Caste(OBC) and/or"

2. According to the petitioners, they belong to "Other Backward Classes" (hereafter 'OBC') and are not entitled to reservation in education and employment as they belong to the "Creamy Layer". The grievance of the petitioners in this petition is that they are not being given a certificate by the concerned authority certifying that they belong to OBC.

3. Ms Srivastava, learned counsel appearing for respondent nos. 1 and 2 had drawn the attention of this Court to an affidavit filed on behalf of the said respondents wherein it has been affirmed that by a letter dated 15.11.1993, all Chief Secretaries of States/Union Territories, were requested to issue instructions to the District Authorities under their control to verify and issue the necessary certificate to the candidates regarding their OBC status as well as exclusion from the creamy layer.

4. The format for giving certificate, which is currently being used is set out below:-

“FORM OF
Certificate to be produced by Other Backward
Classes apply ing for appointment to posts
under the Government of India.

This is to certify that

son of _____ of village _____
District / Division _____
in the _____ State
belonging to the _____ community
which is recognized as a backward class under the Government of
India, Ministry of Welfare Resolution No.12011/68/93-BCC (C),
dated 10th Sept. 1993 published in the Gazette of India
Extraordinary Part I Section I dated 13th Sept. 1993 Shri
and / or his family ordinarily resides (s) in the _____ State.
This is also to certify that he / she does not belong to the
persons/sections (Creamy Layer) mentioned in column 3 of the
Schedule to the Government of India, Department of Personnel &
Training O.M.No.36012/22/93-Estt.(SCT), dated 8.9.93.

District Magistrate,
Deputy Commissioner

dated _____

Seal”

5. It is clearly seen that the said certificate is in two parts. The first part certifies that the candidate belongs to a community, which is recognised as a backward class under the Government of India, Ministry of Welfare Resolution dated 10.09.1993 and the second part also certifies that the candidate does not belong to the persons / sections (Creamy Layer) mentioned in Column three to the Schedule of the Government of India,

Department of Personnel and Training Office Memorandum No. 36012/22/93-Estt.(SCT) dated 08.09.1993.

6. Ms Shrivastava submits that the authorities can therefore issue certificates certifying the former, that is, that the candidate belongs to a backward class and further declining to certify the latter, in case the candidate belongs to the creamy layer.

7. In view of the submissions made by Ms Srivastava, respondent nos. 3 to 6 could have no objection to issue a certificate certifying that the petitioners belong to "Other Backward Class" (if they are satisfied that the petitioners belong to the said classes) without certifying them to be belonging to the non-creamy layer or in the alternative, specifically certifying that the petitioners do not belong to the non-creamy layer.

8. Respondent nos. 3 to 5 are, therefore, directed to issue the appropriate certificate to the petitioners.

9. The petition and the pending application are disposed of with the above directions.

VIBHU BAKHRU, J

JULY 31, 2017
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