

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.282 of 2017
IN
Civil Writ Jurisdiction Case No. 385 of 2015**

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Vinay Kumar Son of Shree Dudhnath Roy, Resident of Village-P.O.-Babura, P.S.-
Barahara, District-Bhojpur,

.... Petitioner / Appellant

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, New Delhi.
2. The Secretary, Staff Selection Commission, New Delhi.
3. The Deputy Director (Exam), Staff Selection Commission (C.R.) Allahabad.

.... Respondents / Respondents

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Appearance:

For the Appellant/s : Mr. Sanjay Kumar Ojha, Advocate.

For the Respondent/s : Mr. S.D SANJAY (ADDL. SOC. GEN.)

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 02-04-2018

Challenging the judgment dated 27.01.2017 passed in
CWJC No. 385 of 2015, the writ petitioner has moved in intra-court
appeal before us.

2. The grievance of the writ petitioner is that in the
selection process for the post of Constable in Central Arms Police
Force Examination, 2013 (hereinafter referred to as the CAPFs') and
Rifleman (GD) in Assam Rifles, 2013 conducted by the Staff



Selection Commission (C.R.), Allahabad, his candidature has been changed from O.B.C. candidate to General candidate. It is his grievance that he had applied for the post of Constable in the category of O.B.C. and, therefore, Admit Card was also issued in his favour treating him as O.B.C. candidate but, later on, at the time of final selection, he was treated in General category and has been selected as a General category candidate.

3. Learned Writ Court having taken note of the stand of the Union of India in Paragraphs 25 and 26 of the Counter Affidavit found that the petitioner had himself brought on the record with the Writ Application a certificate issued on 21.02.2009 (Annexure-4). This certificate is required to be produced by a candidate to show that he does not fall in the 'Creamy Layer', therefore, the certificate is popularly known as 'Creamy Layer Certificate'. It was the contention of the Union of India that the persons claiming to be O.B.C. category candidates were required to produce Creamy Layer Certificates and the Creamy Layer Certificates must have been issued within three years prior to the cut-off date. In this case, the writ petitioner had not brought a Creamy Layer Certificate in accordance with the requirement and, therefore, his name has been rightly considered as a General category candidate.

4. In appeal before us, learned counsel representing the



appellant once again submits that the petitioner has disclosed the fact that he belongs to O.B.C. category and, therefore, once admit-card for written examination as well as admit-card for medical test were issued showing him under O.B.C. category, the respondents are not justified in treating the petitioner as a General category candidate at the time of publication of result.

5. Neither in the grounds of appeal nor in course of hearing the judgment of the learned Writ Court has been assailed stating that the learned Writ Court has passed the impugned judgment on any irrelevant consideration. If it is not a ground of appeal that the learned Writ Court has dismissed the Writ Application on irrelevant consideration, we do not find it a fit case to interfere with the order of the learned Writ Court. What is important in the facts of the present case is not that whether the petitioner belongs to O.B.C. category, the relevant fact would be whether the petitioner had been able to produce the Creamy Layer Certificate in accordance with the requirement to enable him to be put in O.B.C. category of candidates. The relevancy of the Creamy Layer Certificate has not been questioned by the petitioner. It is not the case of the petitioner that the Creamy Layer Certificate was not required and that he had submitted the required Creamy Layer Certificate. We, therefore, do not find any reason to interfere with the judgment of the learned Writ Court.



6. The Appeal has no merit. It is accordingly dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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