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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1472 of 2018

- Kesho Ram Yadav S/o Bhikham Lal Yadav Aged About 40 Years R/o Village Dhorabhata Tahsil Magarload District Dhamtari Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantralaya Naya Raipur Raipur Chhattisgarh.
2. Chhattisgarh Professional Examination Board, Raipur Through Examination Controller, Pension Bada Raipur, District Raipur Chhattisgarh.
3. Chhattisgarh State Council Of Education Research And Training Raipur, Through Its Director Raipur District Raipur Chhattisgarh.

---- Respondent

WPC No. 1180 of 2018

- Poornanand S/o Shri Khorbahara Aged About 27 Years R/o Village Bundela Tahsil Nawagarh, District Bemetara Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantralaya Naya Raipur, Raipur Chhattisgarh.
2. Chhattisgarh Professional Examination Board, Raipur, Through Examination Controller, Pension Bada Raipur, District Raipur Chhattisgarh.
3. Chhattisgarh State Council Of Education Research And Training Raipur, Through Its Director, Raipur District Raipur Chhattisgarh.

---- Respondent

WPC No. 1474 of 2018

- Gochand S/o Kamal Ram, Aged About 27 Years R/o Village

Pandkikala Tahsil Pandriya District Kabirdham Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantarlaya, Naya Raipur, Raipur Chhattisgarh.
2. Chhattisgarh Professional Examination Board, Raipur, Through Examination Controller, Pension Bada, Raipur, District Raipur Chhattisgarh
3. Chhattisgarh State Council Of Education Research And Training Raipur, Through Its Director, Raipur, District Raipur Chhattisgarh

---- Respondent

WPC No. 1482 of 2018

- Khirsagar Patel S/o Santosh Kumar Patel Aged About 37 Years R/o Village Domadih, Tahsil Sarangarh, District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantralaya Naya Raipur, Raipur Chhattisgarh
2. Chhattisgarh Professional Examination Board, Raipur Through Examination Controller, Pension Bada Raipur, District Raipur Chhattisgarh
3. Chhattisgarh State Council Of Education Research And Training Raipur Through Its Director, Raipur, District Raipur Chhattisgarh

---- Respondent

WPC No. 1492 of 2018

- Jitendra Kumar Jaiswal S/o Shri Vijay Kumar Jaiswal, Aged About 35 Years R/o Ward No. 05, Nawagaon Tahsil Katghora District Korba Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantralaya Naya Raipur, Raipur Chhattisgarh.
2. Chhattisgarh, Professional Examination Board, Raipur, Through Examination Controller, Pension Bada Raipur, District Raipur Chhattisgarh.
3. Chhattisgarh State Council Of Education Research And Training Raipur, Through Its Director, Raipur District Raipur Chhattisgarh.

---- Respondent

WPC No. 1498 of 2018

- Hitesh Kumar S/o Ramchandra Aged About 28 Years R/o Village Pandar, Tahsil Patan, District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantralaya, Naya Raipur, Raipur Chhattisgarh
2. Chhattisgarh Professional Examination Board Raipur Through Examination Controller, Pension Bada Raipur District Raipur Chhattisgarh
3. Chhattisgarh State Council Of Education Research And Training Raipur Through Its Director Raipur District Raipur Chhattisgarh

---- Respondent

WPC No. 1515 of 2018

- Lakeshwar Patel S/o Upendra Kumar Patel Aged About 25 Years R/o Village Amlipali Tahsil Baramkela District Raigarh Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantralaya Naya Raipur Raipur, Chhattisgarh.
2. Chhattisgarh Professional Examination Board, Raipur, Through Examination Controller, Pension Bada Raipur, District Raipur Chhattisgarh.

3. Chhattisgarh State Council Of Education Research And Training Raipur, Through Its Director, Raipur District Raipur Chhattisgarh.

---- Respondent

WPC No. 1752 of 2018

- Raju Patel S/o Puranjan Patel Aged About 28 Years R/o Village Charbhantha Tahsil Baramkela District Raigarh Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary School Education Department Mantralaya, Naya Raipur, Raipur Chhattisgarh
2. Chhattisgarh Professional Examination Board Raipur Through Examination Controller Pension Bada Raipur District Raipur Chhattisgarh
3. Chhattisgarh State Council Of Education Research And Training Raipur Through Its Director Raipur District Raipur Chhattisgarh

---- Respondent

For Petitioners : Shri Mateen Siddique, Advocate.
For Respondent/State : Shri AS Kachhawha, Additional AG.
For Respondent No.2 : Dr. Saurabh Kumar Pande, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

05/09/2018 :

1. At the outset, learned State Counsel would submit that the Secretary, School Education Department has not been able to attend the Court because of some important preoccupation at the highest level in the Government.
2. In WPC No.1498/2018, petitioner Hitesh Kumar has wrongly ticked the

category 'handicapped', whereas he is not a handicapped person. In WPC No.1752/2018, petitioner Raju Patel is an OBC but has mentioned the SC category. Therefore, as the subject matter of the aforesaid writ petitions is different, they are delinked from the present bunch and in these writ petitions, separate orders shall be passed.

3. Indisputably, the petitioners have appeared in the Chhattisgarh State Eligibility Test, 2017 (for short 'CGSET') in response to the advertisement (Annexure-P/1) issued by the Chhattisgarh Professional Examination Board, respondent No.2 herein (for short 'the Board'). While filling the form, the petitioners have mentioned their category as OBC without mentioning as to whether they belong to OBC (Non Creamy Layer) or OBC (Creamy Layer). Therefore, the Board has not declared their result for the reason that as the petitioners have failed to mention OBC (Non Creamy Layer), they are treated as General Category candidate.
4. In the instructions issued for the examination (Annexure-P/1), it is mentioned by way of note just under clause-6 that no application for correction of mistake shall be entertained by the Board, however, if there is discrepancy in the application form and OMR answer sheet, entries mentioned in the OMR answer sheet shall prevail and the result shall be declared on the basis of OMR sheet. It is also mentioned that the category, class, date of birth or gender mentioned by the candidate while filling the answer sheet on the date of examination shall be the basis for declaration of result and no application for correction of the said entries shall be made either

before or afterwards.

5. Admittedly, OMR sheet (Annexure-P/5) does not contain any column or space for entering the category to which the candidate belongs. Therefore, the defence raised by the respondents that the petitioners having failed to mention OBC (Non Creamy Layer) in the application form is not available for the simple reason that as per the instructions itself, entry made in the application form is not final and that entry in respect of category, amongst other entries, as mentioned in the OMR sheet would be final. Something which is not treated by the Board itself to be final cannot be thrust on the petitioners for not declaring their result when admittedly they have mentioned their category as OBC in the application form. Here, it would be apt to refer to the OMR sheet of a different examination conducted by the Board vide Annexure-P/9 in which there is space provided for the category clearly mentioning OBC (Non Creamy Layer), meaning thereby that if a person does not belong to OBC (Non Creamy Layer), he has to mention his category as Un-Reserved (General). Only in such eventuality, OBC (Creamy Layer) shall be treated as General Category Candidate and not when he has mentioned his category as OBC in the application form because there is no space reserved/allotted for mentioning the category in the OMR sheet.
6. For the above stated reasons, present appears to be a case where the petitioners are not at fault, as they have clearly mentioned their category as OBC and there was no space allotted for mentioning their category in the OMR sheet.

7. Accordingly, all the Writ Petitions are allowed. The respondent-Board is directed to declare the result of the petitioners by treating them as OBC (Non Creamy Layer) category candidates. Let it be done within a period of 15 days from today.

Sd/-
Judge
(Prashant Kumar Mishra)

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