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

+ **W.P.(C) 4805/2018 AND C.M. No. 18482/2018**

RAMAN YADAV Petitioner

Through Mr. A.K. Bhakt, Adv.

versus

REGISTRAR GENERAL HON HIGH COURT OF DELHI

..... Respondent

Through Mr. Viraj R. Datar, Adv.

Mr. Kamal Kant Jha, Mr. Krishna Kumar, Mr. Siddharth Jha and Mr. Prabhakar Mathur, Adv. for the applicant in CM No. 4551/2018

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+ **W.P.(C) 5200/2018 AND C.M. Nos. 20177/2018 & 20178/2018**

ASHU & ORS Petitioners

Through Appearance not given.

versus

THE REGISTRAR GENERAL DELHI HIGH COURT

..... Respondent

Through Mr. Viraj R. Datar, Adv. for DHC.

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+ **W.P.(C) 5240/2018 and C.M. Nos. 20336/2018, 20337/2018 & 21367/2018**

RAVI AND ORS. Petitioners

Through Appearance not given.

versus

REGISTRAR GENERAL, HIGH COURT OF DELHI AND ORS.

..... Respondents

Through Mr. Sanjoy Ghose, Ms. Urvi Mohan & and Mr. Gaganjyot Singh, Adv. for DHC.

Mr. Gaurav Dhingra, Adv. for GNCTD.

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Mr. Brajesh Kumar, Adv. for UOI.

W.P.(C) 5278/2018 and C.M. Nos. 20452/2018, 20453/2018 & 21547/2018

RAKESH & ANR

..... Petitioners

Through Appearance not given.

versus

REGISTRAR GENERAL, HIGH COURT OF DELHI & ORS

..... Respondents

Through

Mr. Viraj R. Datar, Adv. for DHC.
Mr. Yeeshu Jain, ASC with Ms. Shilpi Chaudhary, Adv. for Service Deptt.
Mr. Mahendra K. Bhardwaj and
Ms. Saakshi Agrawal, Advs. for UOI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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30.10.2018

1. These petitions have been filed by several petitioners, who claim to belong to either Other Backward Class (OBC) or Scheduled Caste (SC) category in States other than NCT of Delhi. They applied in response to the advertisement issued by Delhi High Court for filling-up posts of Court Attendant/Room Attendant (Group-C). The number of vacancies were notified, as follows :

No. of Vacancies				Total	Reservation for PH and Ex-servicemen	
Gen.	SC	ST	OBC		PH	Ex-Servicemen
-	19	09	35	63	02	07
-	01	01	03	05		

2. Since the petitioners were OBC and SC notified in other States, their applications were not entertained on the ground that they did not fall in their respective categories in Union Territory. Consequently, the present petitions have been preferred by the petitioners to claim reservations as OBC and SC category candidates. By the orders passed on different dates, this court permitted the petitioners to participate in the selection process but the results were directed to be kept in sealed cover subject to the final decision in the respective petitions.

3. Mr. Datar, Advocate, who appears for Delhi High Court submits that so far as OBC candidates, who belong to other States are concerned, they are not entitled to claim reservation in Union Territory of Delhi and this position has been reaffirmed by the Full Bench of this court in *Deepak Kumar & Ors. vs. District and Sessions Judge, Delhi & Ors.* [WP(C) 5390/2010] and connected writ petitions decided on 12.09.2012. In this regard, he has drawn the attention of the court to paras 56 and 57, which read, as follows :

56. The Supreme Court had occasion to consider the claim of reservation for OBCs under the Constitution in Veena's case. The Court was alive to the fact that OBCs are notified in respect of each State. The Court had to consider the facts from an almost identical fact situation where candidates from one State claimed to be OBCs in another State or in another Union Territory. Veena (supra) pertained to the Union Territory of Delhi. The Court held that the OBC certificate issued by one State authority or in respect of a resident of a State with his

origins in that State would be inadmissible in another State or Union Territory, for purposes of employment etc., and that the candidate cannot claim be an OBC in the other State. The Court pertinently held as follows:

“6 . Castes or groups are specified in relation to a given State or Union Territory, which obviously means that such caste would include caste belonging to an OBC group in relation to that State or Union Territory for which it is specified. The matters that are to be taken into consideration for specifying a particular caste in a particular group belonging to OBCs would depend on the nature and extent of disadvantages and social hardships suffered by that caste or group in that State. However, it may not be so in another State to which a person belonging thereto goes by migration. It may also be that a caste belonging to the same nomenclature is specified in two States but the considerations on the basis of which they had been specified may be totally different. So the degree of disadvantages of various elements which constitute the data for specification may also be entirely different. Thus, merely because a given caste is specified in one State as belonging to OBCs does not necessarily mean that if there be another group belonging to the same nomenclature in another State, a person belonging to that group is entitled to the rights, privileges and benefits admissible to the members of that caste. These aspects have to be borne in mind in interpreting the provisions of the Constitution with reference to application of reservation to OBCs.”

57. It is also clear that in the case of OBCs, the considerations which weigh with the executive government in issuing notifications are different than in the case of the Scheduled Castes and Tribes. The power to issue Notifications is not rigidly conditioned as in the case of Articles 341 and 342; Parliament also does not have exclusive jurisdiction. The degree of backwardness in the case of OBCs is of an entirely different kind than in the case of Scheduled Castes and Tribes. In view of the above discussion, this Court is of the opinion that the above three writ petitions W.P.(C) 816/2011, 1713/2011 and 8368/2010 have to fail.”

4. The aforesaid extract shows that the legal position was settled by the Supreme Court initially in *M.C.D. vs. Veena & Ors.*, 2001(6) SCC 571. The Supreme Court held that OBC certificate issued by State of origin would be inadmissible in other States or Union Territories for the purpose of employment etc. and that such candidates cannot claim benefit as OBC in other States.

5. In view of the aforesaid position, so far as OBC category candidates in these petitions are concerned, their petitions are bound to fail. Consequently, WP(C) 4805/2018 and WP(C) 5278/2018, which have been preferred by OBC category candidates belonging to other States are accordingly dismissed. WP(C) 5200/2018 is dismissed in respect of petitioner nos. 1 and 2 and WP(C) 5240/2018 is dismissed in respect of petitioner nos. 1, 2 and 3. The said petitions would survive for consideration in respect of petitioner nos.3 and 4, respectively who are SC candidates of other states.

6. Mr. Datar points out that on the basis of interim order passed by this court in the present petitions, Delhi High Court has allowed several other OBC category candidates as well as SC/ST candidates of the other States to participate in the selection process.

7. In view of our aforesaid observations, the candidature of the OBC candidates of the other states need not be processed any further. We permit the Delhi High Court to proceed with the recruitment process and conclude the same. To protect the interest of the SC/ST candidates of other states, since their claim is yet to be adjudicated, we direct that in case they succeed in the present petitions, they shall be considered for appointment according to their merit. The appointments made by the respondents shall be subject to further orders in the present petitions. This aspect shall be specifically stated in the appointment letters that the respondents may issue, so that no rights are claimed by those appointed on equitable considerations.

8. List WP(C) 5200/2018 and WP(C) 5240/2018 for hearing on 16th April, 2019.

CM No. 45501/2018 (for Impleadment) IN W.P.(C) 4805/2018

Learned counsel for the applicant wishes to withdraw the application. Dismissed as withdrawn.

VIPIN SANGHI, J

A. K. CHAWLA, J

OCTOBER 30, 2018/rc

W.P.(C) 4805/2018 & connected matters

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