

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14209 of 2017

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Vinay Kumar, Son of Sri Surendra Prasad Singh, R/o Bajrang Bali Colony
(Phulwari Sharif), P.S. Phulwari Sharif, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department, Govt. of Bihar, Patna.
2. The Director, Agriculture Department, Govt. of Bihar, Patna.
3. The Secretary, Bihar State Staff Selection Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kr. Singh, Adv. Mr. Dharmendra Kr. Singh, Adv. Mr. Manish Kumar Singh, Adv.
For the BSSC	:	Mr. Satyabir Bharti, Adv. Ms. Aparna Arun, Adv.
For the State	:	Mr. Shashi Shekhar Kr. Prasad, AC to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT & ORDER

Date : 08-01-2019

The petitioner has preferred the present writ petition commanding upon the respondents including respondent No. 3/Bihar State Staff Selection Commission (***in short the Commission***) for recommending his name for the purposes of his appointment as Agriculture Coordinator.



2. Pursuant to an advertisement dated 16.05.2015, for the purposes of filling-up approximately 4000 vacancies of Agriculture Coordinator, the petitioner applied and was declared successful in the first round. Later, at the time of counselling, the petitioner could not furnish the Non-Creamy Layer Caste Certificate (*in short the NCLCC*) for him to take advantage of reservation under backward category.

3. It is the case of the petitioner that all the relevant documents, on the basis of which the aforesaid NCLCC could have been issued to him, was furnished by him and he had given an undertaking before counselling team that he shall furnish such NCLCC, no sooner he receives the same.

4. The learned counsel for the petitioner has submitted that during the process of counselling and before consideration of the candidature of successful candidates had begun, the petitioner had submitted NCLCC on 03.03.2016. The results were declared much later and the petitioner was not accorded the benefit of reservation: the sole ground



being non-submission of NCLCC at the time of counselling.

5. The learned counsel for the petitioner tried to build-up his case on the ground that pursuant to an order passed by this Court, the respondent/Commission had asked for fresh documents from the candidates with respect to NCLCC. The notification in that regard, as has been pointed out by the learned counsel appearing for the Commission, clearly indicated that only such candidates would be permitted to furnish a fresh NCLCC who had earlier furnished the said certificate, but of old antiquity and not the new/renewed certificate.

6. The petitioner had not furnished any such NCLCC at the time of counselling.

7. In that view of the matter, despite the petitioner having obtained more marks than those persons who were given the benefit of reservation, he was not appointed.

8. In support of the claim of the petitioner, a judgment delivered by the Supreme Court in ***Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board and Anr. [Civil Appeal No(s). 1691/2016 @ SLP (C) No(s).***



27550/2012] was referred to. In the aforesaid case, the caste certificate was not submitted during the period when it ought to have been submitted. The Supreme Court, after taking into account the judgments delivered in ***Indra Sawhney Vs. Union of India [1992 (Supp) 3 SCC 217]*** and ***Valsamma Paul Vs. Cochin University and Ors. [(1996) 3 SCC 545]***, took the view that the benefit of reservation as enshrined under Articles 14, 15, 16 and 39A of the Directive Principles of State Policy ought to be given full effect to and directed the appointing authority in that case to accept the caste certificate provided by the petitioner therein.

9. The learned counsel for the Commission as well as the State have stated before this Court that submission of caste certificate within time is different from submission of a NCLCC. A person falls in the backward category since his birth, but a person, to qualify for being a non-creamy layer backward caste, he ought to satisfy other conditions and the variables necessarily change with the passage of time. In that event, the employer or the recommending agency, *i.e.*, the Commission, would be under



an obligation to maintain the sanctity of the terms of the advertisement with respect to the time of furnishing of such documents

10. In the present case, at the time of filing of the forms, candidates were not required to file any such NCLCC, but the same had to be furnished only at the time of counselling.

11. The fact remains that the aforesaid certificate had not been furnished by the petitioner at the time of counselling. The objection of the petitioner and the submission of the NCLCC later was rejected by the Commission way back in July, 2017. No effort was made by the petitioner to challenge the aforesaid rejection of his objection and only when the final list of successful candidates was published, after the process of appointment and selection was over, the present writ application was filed.

12. In view of the Division Bench judgment of this Court in ***Dr. Santosh Kumar Vs. The State of Bihar through the Chief Secretary and Ors.***, reported in **2017 (1)**



PLJR 786, no direction can be issued to the recommending agency/appointing authority to consider the case of the petitioner afresh, more so when the entire process has been completed. Any direction in that regard would tantamount to disturbing the result of the appointment process which has taken shape.

13. For the aforesaid reasons, no positive order could be passed in the present writ petition.

14. The writ petition is, therefore, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
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