

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 3168 of 2016

Nirmala Rathore W/o Shri Jagdish Rathore, Aged About 34 Years R/o
Village Bamnhinidih, Tahsil Champa, Distirct Janjgir Champa 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 Educaiton Research And Training, Raipur, Through Its Director, Raipur, District Raipur Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Mateen Siddiqui,
Advocate		
For Respondents No. 1 & 3/ State	:	Shri Anmol Sharma, P.L
For Respondent No. 2	:	Shri Shashank Thakur,
		Advocate on behalf of Dr.
		S. K. Pandey

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15/05/2019

Heard.

1. Learned counsel for the petitioner submits that it is not in dispute that the petitioner submitted his application for appearing in the Teachers Eligibility Test to be conducted by the Chhattisgarh Professional Examination Board (In short "the Board"). According to the petitioner, he belonged to O.B.C. (Non creamy layer category), however, at the time of filing OMR sheets, the word "creamy layer" was mentioned.

This led to assessment and declaration of the results treating the petitioners as O.B.C. (creamy layer) as minimum cut off mark for eligibility for O.B.C. (non-creamy layer category) is 50% and that prescribed for O.B.C. (creamy layer category) is 60%. The petitioner was held to be not qualified in the examination.

2. Submission of learned counsel for the petitioner is that the petitioner belong to O.B.C. (non-creamy layer category) as is evident from his certificates placed on record. It is submitted that the petitioner, due to inadvertent mistake mentioned himself as O.B.C. (creamy layer), whereas actually he belonged to O.B.C. (non-creamy layer).
3. On the other hand, learned counsel for the respondent-Board submits that there is no mistake committed by the respondent-Board. The petitioner was assessed on the basis of declaration given by him. If there is any mistake in giving such declaration, the respondent-Board cannot be faulted.
4. Both the counsels further submits that the issue may be disposed of in view of the judgment passed by this Court in WPC No. 249 of 2015 on 01/09/2015. This Court in the case of WPC No. 249 of 2015 has passed the following order:

It appears that though the petitioners claim to be O.B.C. (non-creamy layer category), while filling O.M.R. sheets, they declared themselves as O.B.C. (creamy layer category). In their application form, which was originally submitted as also in their admit cards, the petitioners were declared as O.B.C. (non-creamy layer). Considering this aspect of the matter, it appears that at the stage of filling the O.M.R. Sheets during examination, the petitioners gave declaration contrary to the declaration

given by them at the time of filling their application form. In such an eventuality, fairness demands that the petitioners should be accorded that status, to which, they are actually entitled under the law. For this purpose, the certificates of caste status as issued by the competent authority has to be taken as valid basis. Each of the petitioners have placed on record their certificates. The respondent-Board may get it verified from the competent authority, who is said to have issued these certificates and upon proper verification, if it is found that the certificates were issued by the authority, which have been produced by the petitioner before this Court, the results of the petitioners shall be accordingly modified by treating them as O.B.C. (non-creamy layer).

Considering that without getting eligibility certificates, the petitioners may not be able to apply for teaching post, it is directed that if the petitioners submit certified/attested photocopy of their respective caste certificates before the respondent-Board and also produce original certificates for inspection, the respondent-Board shall get it verified from the competent authority by sending memo to them and then pass appropriate order for issuing mark sheets/eligibility certificates within a period of 45 days from the date of receipt of verification report from the competent authority.

5. Considering the facts and the submissions of the parties that the issue is covered by judgment dated 01/09/2015, passed in WPC No. 249 of 2015, the petitioner is also entitled for same relief as shown supra.
6. With the above observation, the petition stands disposed of.

Sd/-
Goutam Bhaduri
Judge