

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.13929 of 2019
Date of decision:24.09.2019**

Munni Devi

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G.Haryana.

Mr. Kanwal Goyal, Advocate
for respondent no.3.

AMIT RAWAL J. (Oral)

Petitioner-Munni Devi has invoked the extra ordinary jurisdiction of this Court for issuance of directions to the respondents to convert 08 posts of Assistant Professor in the subject of Chemistry reserved for Special Backward Classes category into General Category which were promulgated in pursuance to advertisement no.10 dated 16.02.2016 (Annexure P-2) with a further directions to the respondents to fill up 75 instead of 70 posts of Assistant Professor in the subject of Chemistry from General Category in accordance with reservation policy of State dated 15.07.2014 (Annexure P-16) and not to re-advertise 08 posts of Special Backward Classes by converting into General Category.

The respondent-department came out with an advertisement dated 22.01.2014 (Annexure P-1) for filling up 1396 posts of Assistant Professor (College Cadre) in various subjects in Higher Education Department, Haryana.

Mr. Jasbir Mor, learned counsel appearing on behalf of the petitioner submits that in the aforementioned advertisement, 06 posts were reserved under Special Backward Classes. The said reservation was challenged before this Court and during pendency of writ petition, Department of General Administration, dealing with General Service-III, Branch came out with communication dated 21.08.2015 addressed to all the Administrative Secretaries, Head of Departments, all the Deputy Commissioners and Secretary, Haryana Staff Selection Commission and Haryana Public Service Commission with regard to grant of reservation in direct recruitment/admission in Universities/Colleges of Haryana State in case of Special Backward Classes and in case of quashing of aforementioned reservation notification, result of candidates belonging to Special Backward Classes would be declared null and void, much less candidates would become ineligible and till such time, result should be withheld. However, the aforementioned advertisement was withdrawn and requisition was sent to Haryana Public Service Commission to cause an advertisement dated 16.02.2016 (Annexure P-2). The petitioner being aspirant and fully eligible applied under General Category and was issued admit card, (Annexure P-5) for sitting in the written examination held on 09.07.2017. The petitioner had undergone the process of interview and had

secured the result but her name could not come in the merit list. The department has now come out with new instruction dated 05.03.2019. However, factum of posts advertised in Special Backward Classes Category on account of notification causing reservation for a particular class being quashed were required to fall under General Category. In such circumstances, candidature of petitioner is required to be considered as she may be selected on account of marks being almost equal to last selected candidate. Advertisement dated 16.02.2016 did not disclose about the same which fact is evident as per the information received under clause (viii) of Right to Information Act, thus, impugned action of the respondents is not justified in not specifying whether the posts reserved under Special Backward Classes had been converted into General Category or not.

Mr. Kanwal Goyal, learned counsel appearing on behalf of respondent no.3 submits that advertisement of 2014 was withdrawn. Even corrigendum post notification of advertisement of 2016 did not specify any reservation under Special Backward Classes Category. Haryana Public Service Commission only caused the advertisement on the basis of requisition sent by concerned department and therefore, it has no role to play for filling earlier posts reserved under Special Backward Classes category. Haryana Public Service Commission is brought into motion on receipt of requisition of seats for General Category, might have been included posts reserved for Special Backward Classes. In this regard, he has drawn the attention of this Court to communication dated 05.03.2019, (Annexure P-9) from the office of Chief Secretary to the Government of

Haryana to Secretary, Public Service Commission, Panckuula and Haryana Staff Selection Commission, deciding that result of Special Backward Classes has been put on hold due to Court orders. However, there is no such orders with regard to aforementioned posts. In such circumstances, status of petitioner qua previous advertisement is wholly misplaced and urges this Court for dismissal of writ petition.

I have heard learned counsel for parties, appraised paper book and of view that there is no force and merit in submissions of Mr.Mor, for, it is conceded position on record that advertisement specified reservation of 06 posts under Special Backward Classes category was withdrawn and substituted by advertisement No.10 of 2016 and corrigendum of April 2016 specifying therein no such posts under Special Backward Classes category and as well as factum of notification qua reservation.

No doubt, person lives on hope but the intention expressed is far-fetched, for, writ petition is bereft of particulars with regard to cut off marks under General Category. There is no material placed on record to establish whether advertisement in question included the increase in seats which were earlier reserved under Special Backward Classes Category. Haryana Public Service Commission acts on the request of concerned department. The letter dated 05.03.2019 putting the result of candidates belonging to SBC Category on hold, would not come to the rescue of petitioner. If at all, petitioner was so hopeful and wishful in obtaining the merit, she could have applied and found to be in merit list.

As far as non-filing of writ petition qua roster point is concerned, writ petition is bereft of particulars how and what prevented her in not filing the writ petition, thus, in such circumstances, State could not have replied the same, thus, writ petition is devoid of merit.

No ground for interference is made out.

Dismissed.

(AMIT RAWAL)
JUDGE

September 24, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No