

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

**CWP No.13845 of 2014 (O&M).
Date of Decision: 08.07.2019**

Rajwinder Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Ish Puneet Singh, Advocate,
for the petitioner.

Ms. Deepali Puri, Addl. AG, Punjab.

Mr. Madhav Pokhrel, Advocate,
for respondent Nos. 4 & 5.

JITENDRA CHAUHAN J.

Through the instant writ petition, the petitioner has sought quashing of the order dated 03.06.2014 (Annexure P-8) passed by the respondent No.1 and order dated 18.04.2013 (Annexure P-7) passed by the respondent No.2 vide which her claim for appointment was declined.

It is contended that the petitioner had applied for the post of Math Teacher against the post reserved for the Backward Class category and attached the requisite certificates in response to the advertisement dated 23.09.2009 (Annexure P-1). The BC certificate (Annexure P-2) was issued on 26.12.2008 and the same was valid upto 25.12.2009. As per the instructions in the advertisement, the BC certificate was required to be not more than one year older from the

last date of submission of application form. The last date for submission of application form was 09.10.2009 and the certificate was got issued on 26.12.2008. On the basis of provisional merit list, the petitioner was called for scrutiny of the original certificates. She appeared in the counselling on 31.12.2009 and produced all the original documents. At the time of counselling on 31.12.2009 the petitioner submitted both the original certificate dated 26.12.2008 and fresh BC certificate dated 30.12.2009 (Annexure P-4). When the result list was published online, the name of the petitioner was shown to be rejected with the remarks “Merit lower than the uncalled candidates” and her category had also been changed to that of General category. It is further contended that the merit of the petitioner was 61.137% whereas, respondent No.4, Sneha Lata secured 60.9% but was selected and appointed under BC category by ignoring the merit of the petitioner.

It is further contended that certificates (Annexures P-2 and P-4) produced by the petitioner were issued by the competent authority in the appropriate format. The petitioner belongs to the Backward class category since birth and as proof thereof, the BC certificate of Sh. Sapal Singh, father of the petitioner had been produced as Annexure P-13.

On the other hand, on behalf of the respondents, it is contended that the petitioner had produced the BC certificate dated 26.12.2008 (Annexure P-2) and dated 30.12.2009 (Annexure P-4) at

the time of scrutiny of her original documents. These certificates had been issued in favour of the petitioner as wife of Princejit Singh. The certificates do not establish that the petitioner belonged to the BC category by birth. It is further contended that as per Punjab Government letter dated 02.01.1984 (Annexure R-4), the candidate must belong to particular caste by birth.

Heard.

The merit of the petitioner at 61.137 has not been disputed. It has also not been disputed that the last candidate in the BC category has secured less marks than the petitioner. The petitioner has been non-suited only on the ground that she is not a backward class candidate as the BC certificates (Annexure P-2 and P-4) reflect that her husband is a backward class candidate but she is not backward by birth. The approach of the respondents is fallacious. The petitioner has brought on record certificate (Annexure P-13) wherein it is reflected that her father Satpal Singh belongs to the backward category. As regards the production of the certificate, it is not disputed that the last date for submission of application forms was 09.10.2009 and the petitioner had produced the BC certificate dated 26.12.2008 which was issued within one year from the last date of submission of the applications.

In view of the above, the present civil writ petition is allowed. The impugned order dated 03.06.2014 (Annexure P-8) and order dated 18.04.2013 (Annexure P-7) are hereby quashed. The

respondents are directed to appoint the petitioner on the post of Maths Teacher from the date, persons lower in merit in the BC category were appointed. The necessary exercise be completed within two months from the date of receipt of certified copy of the judgment.

08.07.2019.

SN

(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No