

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

**CWP No.21316 of 2014 (O&M).
Date of Decision: 13.05.2019**

Amanpreet Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Ruhani Chadha, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

JITENDRA CHAUHAN J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the action of the respondents in not including the name of the petitioner in the interview list (Annexure P-13) uploaded by the respondent-department on the website for the post of TGT (Science) under Rashtariya Madhyamik Shikhya Abhiyan Authority.

Learned counsel for the petitioner submits that before marriage, the petitioner belonged to Lohar caste which has been recognized as Backward Class by the Government of Punjab. Though the petitioner was not having such certificate, but she was having certificate issued by Sub-Divisional Officer, Ludhiana to the father of the petitioner stating therein that the father of the petitioner belongs to Lohar caste which had been recognized as backward Class in terms of Punjab Government letter. The 'Lohar' falls in the 'Ramgarhia Caste' which is a Backward Class caste.

It is further contended that the petitioner got married on 06.12.2009 to Manjot Singh who also belongs to Ramgarhia Caste which has also been recognized as Backward Class. Even the Tehsildar, Patiala issued certificate (Annexure P-1) to the effect that petitioner belonged to Backward Caste. In the month of October, 2013 the Government of Punjab, Department of School Education issued a public notice uploaded on the web site on the respondent-department inviting applications for 264 posts of Head Masters and 764 posts subject wise teachers including 110 posts of Science Teachers. As per the said notice, the eligible candidates were to personally submit online applications on or before 31.10.2013 in the prescribed on-line form. The petitioner submitted her application form by mentioning all the requisite information. The petitioner duly applied under the backward class category.

It is further contended that as per the merit criteria, the petitioner scored 66.335 marks and as such the petitioner duly appeared before the respondent-authority on the date fixed and showed all the original documents i.e. academic certificate and B.C Certificate in compliance with clause 6(c) of the advertisement which is reproduced as under:-

“The female candidate of backward class, the certificate of whom are made with the name of her husband immediate after marriage, such candidate will have to produce at the time of scrutiny in which the name of her father is included

or a certificate of backward class of her father. In case she does not produce such certificate, her name will not be considered in the category of backward class.”

It is further pointed out by the learned counsel for the petitioner that the petitioner duly appeared and showed all her documents including her backward class certificate issued by Tehsildar, Patiala and even showed certificate issued by Sub Divisional Officer, Ludhiana to her father wherein it is stated that 'Ramgarhia caste' is a Backward Caste, but the said certificates were never taken into consideration by the respondent-authorities.

It is further contended that even as per the list of candidates called for interview, some of the candidates who are having lower merit than the petitioner, had been called for interview. Some of the candidates, namely, Shivani (registration no. R006-00016467) daughter of Madan Lal, having merit no. 64.4996, Anu Bansal (R006-00004016) daughter of Amrit Lal Bansal having merit no. 66.24 and one Rajwinder Kaur (R006-00028951) daughter of Bagh Singh having merit no. 3103 had been called for interview. Even as per the law if a reserve category candidate is having more marks than the last selected candidate under the general category than the reserve category candidate should be considered under the general category.

On the other hand, on behalf of the respondents, it is contended that the petitioner had applied for the post under the Backward Class Category, but at the time of counselling she did not

produce the backward Class Certificate in accordance with the condition as mentioned in clause 6 (C) of the advertisement. Therefore, in view of the aforesaid position, the present writ petition is not maintainable and as such, same is liable to be dismissed.

Heard.

The controversy involved in the present civil writ petition is squarely covered by the ratio of law laid down in **Krishan Kumar and others Versus State of Haryana, 1992 (1) RSJ 174** wherein it was held that if a candidate lower in selection list is approved the candidate higher in selection list would be entitled to seek appointment from the date, the candidate lower in rank was appointed otherwise that would amount to denial of equality before law and it would be a case of discrimination. Similarly in the present case, the petitioner is more meritorious than the candidates called for interview and is entitled to be considered for appointment/selection for the post of TGT (Science).

In view of above, the present civil writ petition is allowed. The respondents are directed to appoint the petitioner on the post of TGT (Science). The necessary exercise be done within a period of two months from the date of receipt of certified copy of the judgment.

13.05.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No