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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 29.05.2019**

% **W.P.(C.) No. 6043/2019**

UNION OF INDIA

..... Petitioner

Through: Ms. Suparna Srivastava and
Ms. Sanjna Dua, Advocates.

versus

ANURAGBACHAN SINGH & ORS.

.....Respondents

Through: Mr. Mukesh Kumar, Advocate for
R-1.
Mr. Naresh Kaushik and Mr. Devik
Singh, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

VIPIN SANGHI, J. (ORAL)

Caveat No.579/2019

Counsel appears for the caveator/respondent. Caveat accordingly stands discharged.

CM No.26094/2019

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C.) No. 6043/2019 & CM No.26095/2019

1. The petitioner has preferred the present petition to assail the order dated 11.03.2019 passed by the Central Administrative Tribunal Principal Bench in OA/100/4400/2018. The Tribunal has allowed the said Original Application preferred by the respondent-applicant. The respondent had preferred the said original application with his grievance that even though he belonged to the OBC category/ 'JAT' community, and he had secured the overall rank of 673 in Civil Services Examination (CSE) conducted in the year 2017, he had not been allocated to a service and another candidate-who had secured the rank of 675 belonging to the OBC Category was allocated to the Indian Revenue Service (IT). The reason given by the petitioner for not selecting and allocating a service to the respondent as an OBC candidate, was that the certificate that he produced, as issued by the Sub Divisional Magistrate, Sri Ganganagar (Rajasthan) described the respondent as belonging to "JAT SIKH" Community.

2. The stand taken by the petitioner was that "JAT SIKH" is not one of the class enlisted as a backward community in the central list for the State of Rajasthan. On the other hand, the case of the respondent was that the caste "JAT" is enlisted as a backward class, and merely because the certificate described him as "JAT SIKH"- since he follows the Sikh religion, it would not take away the fact that he belonged to the JAT Community, which is a backward class.

3. To clarify the matter, the respondent produced yet another class certificate issued by the SDM, Sri Ganganagar (Rajasthan) dated 9.3.2017

which described his community as 'JAT'.

4. It is not in dispute that the "JAT Community" is enlisted as backward class, and if the candidature of the respondent had been considered as falling in the OBC category, he was meritorious enough to be allocated to the service in the said CSE 2017. The Tribunal has allowed the original application by placing reliance on the OM dated 6.11.2001 which is relevant and pertinent to the issue, and the same reads as under:-

"1. I am directed to refer to your letter No.F11/25/2/R&P/SV/584 dated 16.10.2001 on the above subject and to say that JAT Caste/Community has been included in the Central List of OBCs for Rajasthan (except Bharatpur & Dhaulpur Districts) as per the Notification No.12011/68/98-BCC dated 27.10.1999.

2. As regards inclusion of any Caste/Community in the Central Lists of OBCs, there is no bar of religion and as such any caste/community irrespective of its religion can be considered for inclusion in the Central Lists of OBCs provided the community otherwise fulfill the criteria of Social, Educational and Economic backwardness.

3. In view of the above, persons professing sikh religion belonging to 'Jat' community in the State of Rajasthan (except Bharatpur & Dhaulpur Districts) are entitled to get Backward Class Certificate. However, before issue of such certificate it may be ensured that the person concerned is a permanent resident of that State. In case of migrant OBCs, we have migrated from one state to another, the OBC certificate may be issued on the production of a Certificate issued to his father by the prescribed authority of the State of his father's origin after satisfying about the genuineness of the certificate issued to his father by the State of his origin. A copy of the guidelines issued in this regard by the Govt. of India is enclosed."

5. The Tribunal has also placed reliance on the decisions of the Allahabad High Court in ***Baldev Singh Vs. Tahsildar and Others, 2000(4) AWC 2781*** and the decision of the Uttrakhand High Court in ***Dharam Singh Vs. State of Uttranchal through Chief Secretary and***

Others in W.P(C) No. 917 (M/B) of 2003.

6. Learned counsel for the petitioner has sought to place reliance on a communication dated 1.6.2017 issued by the Deputy Secretary to the Government of India addressed to the Joint Secretary UPSC, as well as specific communication issued in relation to the respondent dated 7.6.2018 addressed by the Ministry of Social Justice and Empowerment to the Secretary Department of Personnel and Training (DoPT), Ministry of Personnel, Public Grievances and Pensions, wherein it is stated that 'JAT SIKH'-Community does not fall in the Central List of OBC for the State of Rajasthan. Both these communications do not specifically refer to or deal with the OM dated 6.11.2001 referred to by the Tribunal in the impugned order. They are both contrary to the aforesaid OM and, therefore, are incorrect. They also ignore the decisions of two High Courts relied upon by the respondent. Thus, these communications, in our view, are of no avail.

5. The enlistment of the backward class for the purposes of grant of reservation is religion neutral. That being the position, merely because the respondent's religion i.e. Sikhism was mentioned in class certificate issued to the respondent, it did not take away the fact that he belonged to the "JAT Community" which is a reserved class. Moreover the same authority, namely, the SDM, Sri Ganganagar (Rajasthan) has issued the subsequent class certificate, which leaves no manner of doubt that the respondent belongs to the "JAT Community" which is a reserved class in the Central List for the State

of Rajasthan, and falls in the Central List of OBC.

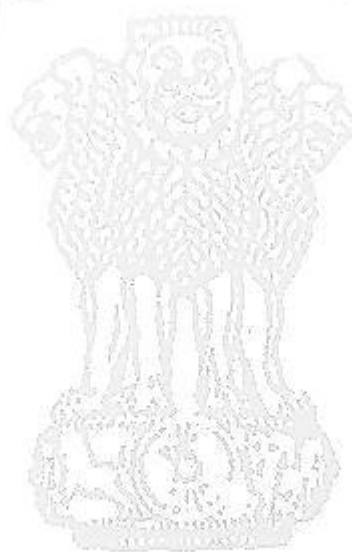
6. Accordingly, we find no merit in the petition. Dismissed.

VIPIN SANGHI, J.

RAJNISH BHATNAGAR, J.

MAY 29, 2019

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