

25.11.2021

Court No.13

Sl.14

pk

W.P.A. No. 13785 of 2021

**Amartya Paul
Versus
Union of India & Ors.
(Through Video Conference)**

Mr. Ujjal Ray

...for the petitioner.

Mr. Anil Kumar Gupta

...for the Union of India.

Mr. Surojit Chakraborty

... for the respondent nos. 2 and 3.

Affidavit of service filed in Court today be kept with the record.

Since the only issue before me is the interpretation of a Central Government notification, affidavits are not called from the respondents.

The writ petitioner has applied for and succeeded in the process of recruitment to the post of Executive Trainee (Mechanical) in E-2 Grade with the GAIL (India) Limited, a public sector undertaking. The petitioner was, however, not allowed to join the post since his OBC certificate issued by the Government of West Bengal contained the expression 'Teli Kolu'. The GAIL Authorities were of the view that since the Central Government specified only 'Teli' as a community to be recognised under the OBC in the state of West of Bengal, the expression 'Teli Kolu' in

the petitioner's OBC certificate cannot be accepted as valid.

The writ petitioner belongs to OBC category. His father had an OBC certificate which stated that he belongs to 'Teli' community. The list of communities entitled to be treated as OBC is published by the Central Government and the same is communicated to the State Government, which is entitled to change the caste name as per local customs.

The Central Government in its notification indicating the list of communities falling under OBC for West Bengal had at serial no. 13 specified the 'Teli' community. However, the Government of West Bengal, inter alia, by communication dated 13.08.2021 has clarified to the Sub-Divisional Officer, Bidhannagar that the 'Teli' community either includes the 'Kolu' community. It was also clarified that the 'Kolu and Teli' communities are both OBC falling under serial no. 13 of the list as specified by the Central Government.

Annexed to the communication dated 13.08.2021 (page 70) is another communication dated 28.08.2018 (page 71) where the Principal Secretary to the Government of West Bengal communicated to the Chairman, National Commission for Backward Classes that the 'Kolu' community is the same as the 'Teli' community. A further communication dated

10.12.2019 (page 72 of the writ petition) is also available apart from the other documents.

In that view of the matter, this Court is of the view that the petitioner's OBC certificate as belonging to the 'Teli Kolu' community issued by the State Government is valid and lawful. The petitioner falls within the 'Teli' community specified against serial no. 13 by the Central Government for the State of West Bengal.

This Court is, therefore, of the unequivocal view that the respondent/GAIL was not justified in refusing the appointment to the petitioner. The GAIL (India) Limited shall issue letter of appointment to the writ petitioner, namely, Amartya Paul forthwith.

Since the petitioner has been wrongfully deprived of the right to appointment along with two other candidates in the Executive Trainee (Mechanical) in E-2 Grade, his appointment must be made effective from the date on which the other two persons, namely, Rajarshi Acharya and Rakesh Kumar Mishra have been appointed.

It is ordered that the petitioner's seniority shall be notionally reckoned and calculated on the same date of joining as the other two persons mentioned herein above.

It is expected that the respondents shall issue orders to the petitioner within a period of seven days from the date of receipt of a copy of this order.

With the aforesaid directions, the writ petition is disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)