

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.734 of 2020

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Rinku Kumari, D/o Shri Dronacharya Thakur, W/o Sri Sanjay Thakur,
Resident of Mohalla-North Mandiri, Chhakaran Tola, P.O. and P.S.-Budha
Colony, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Vikash Bhawan, Bailey Road, Patna.
2. The Director in Chief, Health Department, Vikash Bhawan, Bailey Road,
Patna.
3. The Bihar Staff Selection Commission, P.O.-Veterinary College, District-
Patna through its Chairman.
4. The Secretary, Bihar Staff Selection Commission, P.O.-Veterinary College,
District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Kant Singh, Advocate
For the B.S.S.C.	:	Mr. Ryan Shankar, Advocate
For the State	:	Mr. Viraj Kumar, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 11-07-2022 Heard counsel for the petitioner and learned counsels
for the respondents.

The petitioner participated in the process of selection
of ANM in the office of Civil Surgeon-cum-Chief Medical
Officer pursuant to advertisement dated 17.02.2016.

The admitted facts are that petitioner was interviewed
on 17.01.2017. On 20th of January 2017, three days thereafter,
she obtained a certificate showing her to be not within the
creamy layer. This creamy layer certificate was not produced
admittedly at the time of counseling but subsequently. Having
regard to such lapse, the authorities have considered the
petitioner's claim as a general category candidate, since she



failed to establish that she was member of the creamy layer so as to be entitled to the benefit of reservation in the category of EBC.

Mr. Singh, appearing for the petitioner, submits that the requirement of submitting creamy layer certificate on the date of counseling/interview was not specified in the advertisement.

He refers to Clause-(ii) of the advertisement, which reads as follows:-

ii. आरक्षित उमीदवारों के लिए , राज्य सरकार द्वारा अधिसूचित अंचलाधिकारी द्वारा निर्गत जाति प्रमाण पत्र/क्रीमी लेयर रहित प्रमाण पत्र मान्य होंगे। साक्षात्कार के समय ऑनलाइन आवेदन पत्र के साथ क्रीमीलेयर रहित प्रमाण पत्र/जाति प्रमाण पत्र संलग्न नहीं करनेवाले अभ्यर्थी सामान्य श्रेणी के माने जायेंगे तथा उन्हें आरक्षण का लाभ देय नहीं होगा। अभ्यर्थी आवेदन-पत्र भरते समय इस बात का ध्यान रखेंगे की वे जिस आरक्षण श्रेणी के अन्तर्गत आते हो, उसी आरक्षण श्रेणी का दावा करेंगे।

It is submitted that the advertisement does not specify that both, the creamy layer certificate, as well as caste certificate are to be produced on the date of counseling or interview and,



therefore, the fact that the petitioner has submitted the certificate, three days thereafter, cannot be held against the petitioner so as to disqualify her from benefit of reservation, being a member of the extremely backward classes.

Submission of Mr. Singh is based on an interpretation of the requirement specified in the advertisement, which is clearly unsustainable. Clause-(ii), noted above, specifies that candidates who do not produce non-creamy layer certificate/caste certificate at the time of counseling/interview, would be considered as candidates of general category and would be ineligible for benefit of reservation. There is no ambiguity from bare reading of the provision that both, non-creamy layer certificate as well as caste certificate, have to be submitted at the time of counseling/interview. Intention of the advertisement is clear. There is no separate prescription specifying any other stage of the selection process for submission of the non-creamy layer certificate. Also both the requirements are in support of the claim for benefit of reservation. Any other inference, therefore, cannot be drawn regarding the stage of the selection process at which the non-creamy layer certificate was to be submitted. This Court has no doubt that the requirement of non-creamy layer certificate was



to be fulfilled at this time of counseling/interview.

No right can be claimed for the benefit of reservation when admittedly certificate was submitted after the date of counseling/interview.

No case is made out. Writ application is dismissed.

(Madhuresh Prasad, J)

SUMIT/Shashank/-

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