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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 10.05.2022*

+ W.P.(C) 9856/2019 &amp; CM APPLs. 40711/2019, 21702/2020 &amp; 13171/2021

GOVT. OF NCT OF DELHI THROUGH ITS CHIEF  
SECRETARY & ORS

..... Petitioners

Through: Mrs Avnish Ahlawat, Standing  
Counsel, GNCTD (Services)  
with Mr Siddhant Tyagi and  
Mrs Palak Rohmetra,  
Advocates

versus

ANJANA

..... Respondent

Through: Mr U. Srivastava, Advocate

**CORAM:****HON'BLE MR. JUSTICE NAJMI WAZIRI****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****NAJMI WAZIRI, J. (ORAL)**

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. The petitioner impugns the order of the learned Central Administrative Tribunal ("CAT") dated 28.03.2019 in O.A. No.2986/2016, which while allowing the respondent's O.A. has directed the GNCTD to, within a period of two months from the date of receipt of a copy of the order, take further steps *apropos* issuance of order of appointment, treating the present respondent as an OBC



candidate, in accordance with the position of merit obtained by her in the written test.

2. Three years have gone-by since the passage of the said order. No corollary relief has been received by the respondent. She had applied for appointment to the post of Assistant Teacher (Nursery), (Post Code 3/13). She claimed OBC status. Examinations were held. Results were declared. She came in the merit list. However, her result was cancelled on 26.02.2016 as it was found that the OBC certificate produced by her was issued on the basis of her father's OBC status recognized in Uttar Pradesh. The said certificate was issued by the Executive Magistrate, Palam, New Delhi.

3. Subsequently by Public Notice dated 10.01.2017 the GNCTD provided all meritorious candidates another opportunity of filing their relevant documents. In the petitioner's case, the relevant document would be the OBC Certificate. The said Public Notice, *inter alia*, reads as under:-

*If any candidate is having marks above the cut-off but his/her roll number has not been mentioned in Annexure "A" he/she will also attend the office on 24.01.2017 & 25.01.2017 along with copies of documents, admit card and two passport size photographs.*

*This is final opportunity for the candidates failing which it will be presumed that the candidates are not interested for the post of Asstt. Teacher(Nursery)*

*"Note:- (i) OBC (Certificate) Should be issued by the Competent Authority of G.N.C.T. of Delhi, OBC (Outsider/Migrant/Central) will be treated as UR Candidate."*

4. In the interim, on 10.03.2016, eight months before the issuance



of the aforesaid Public Notice, a fresh OBC Certificate had already been issued to the petitioner by the Tehsildar, Dwarka, New Delhi on the basis of her residence in Delhi, inasmuch as the “Lodhi Community” she claimed to be from, was recognized as OBC under GNCTD Notification dated 20.01.1995.

5. However, despite the production of the latter OBC Certificate of 10.03.2016, she was not granted employment. The first OBC certificate was issued on the basis of her father hailing from Uttar Pradesh and belonging to the Lodhi OBC category. Between the issuance of the first and the second OBC certificates, the community to which he belonged remained unaltered, indeed subsists. His daughter-the petitioner, was issued an OBC certificate on the basis of the father’s residence in Delhi at least from 1995. Albeit the father claims to have resided in Delhi since 1986. On the basis of a driving licence issued in Delhi, his Ration Card and other documents. The respondent was born and educated in Delhi. Her status as a member of the Lodhi Community, which forms a part of Other Backward Class, remains unaltered. This community is recognised as OBC as per GNCTD notification of 20.01.1995. Therefore, issuance of OBC certificate to her is justified. In terms of a subsequent Memorandum dated 13.01.2017 issued by the Delhi Subordinate Services Selection Board (“DSSSB”), the petitioner was granted a last and final opportunity to produce the OBC certificate which she did produce and submitted to DSSSB within the time specified.

6. The petitioner states that in view of two OBC certificates, the dispute arose as to which one will be valid. There is no dispute here.



It is only the petitioners' indecision to accept the relevant document. The latter OBC certificate of the successful candidate meets all requirements of the recruitment notice. It should have been accepted. An administrative approval/decision should have been taken instead of bringing the case to this court. The court is of the view, that whichever way it is seen, the respondent continues to belong to the OBC category. In the first certificate, her recognition in the OBC category was on the basis of her father hailing from Uttar Pradesh whereas in the second certificate, it was on the basis of her being born and raised in Delhi but the status of her father belonging to the OBC Lodhi class remains constant and intact. Therefore, she is rightly certified in the "OBC" category.

7. Therefore, the respondent shall be treated as an OBC candidate and shall be issued an appointment letter within four weeks of receipt of a copy of this order.

8. The impugned order calls for no interference. The petition is disposed-off in the above terms. All pending applications also stand disposed-off.

**NAJMI WAZIRI, J**

**SWARANA KANTA SHARMA, J**

**MAY 10, 2022**

**kks**