

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.46 of 2022

In

Civil Writ Jurisdiction Case No.10583 of 2021

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1. The Chairman, Bihar Police Sub-ordinate Services Commission, Santosh Mansion, B-Block, R.P.S. Law College, Raghunath Path, Danapur, Patna.
 2. The Secretary, Bihar Police Sub-ordinate Service Commission, Santosh Mansion, B-Block, R.P.S. Law College, Raghunath Path, Danapur, Patna
... .. Appellant/s

Versus

1. Dolly Kumari, D/o Sunil Kumar, Resident of Village - Alinagar, Biharsharif, P.S. - Bihar, District- Nalanda.
...Petitioner/Respondent 1st Set.
2. The State of Bihar through Secretary, Home Department, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Inspector General of Police, (Recruitment), Govt. of Bihar, Patna.
5. The Senior Superintendent of Police, Patna, Bihar, Bihar, North of Gandhi Maidan.
...Petitioner/Respondent 2nd Set.

Appearance :

For the Appellant/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Sanjay Pandey, Advocate
Mr. Nishant Kumar Jha, Advocate
For the Respondent/s : Mr. Prabhat Kr. Verma, AAG-3
Dr. Anjani Pd. Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

6 15-05-2023 1. The instant Intra-Court appeal has been preferred
against the judgment dated 8.12.2021 passed in CWJC no.10583



of 2021 whereby the learned Single Judge was pleased to allow the prayer made in the writ petition in part directing the respondents-selecting authority to consider the petitioner's candidature under GM quota/category and further to permit the petitioner to participate in further process of selection for appointment to the post of Police Sub Inspector.

2. The case of the writ petitioner-respondent no.1 in brief is that pursuant to the advertisement dated 21.8.2019, the petitioner as a female candidate submitted her application for appointment on the post of Police Sub Inspector. Although the petitioner belongs to the Extremely Backward Class ('EBC' in short) category, while filling up the application form, she erroneously mentioned her category as Backward Class ('BC' in short). Although she cleared all the examinations including the physical test, she was not permitted to participate in the further process on the ground that although the petitioner's claim for appointment is under the EBC category, she had mentioned her category in the application form as BC. Not having been permitted to participate further in the selection process and her application being liable to be cancelled in terms of the stipulations specially clause 6 of the advertisement, the petitioner filed the writ application praying for a direction to the



respondents to publish her result in view of the fact that she had qualified both in the written test as well as the physical test conducted by the Bihar Police Sub-ordinate Service Commission, Patna (hereinafter referred to as 'the Commission') and for a further direction to the respondents to correct the category as EBC in place of BC in the application form and to consider the candidature of the petitioner against Advertisement no.1/2019 for the post of Police Sub-Inspector.

3. The learned Single Judge by order dated 8.12.2021 was pleased to allow the writ petition in part directing the respondents-selecting authority to consider the petitioner's candidature under the GM quota/category and to further permit the petitioner to participate in the process for the post of Police Sub Inspector.

4. Shri P.K Shahi, learned Senior advocate assisted by Shri Sanjay Pandey appeared for the appellants ie the Bihar Police Sub-ordinate Service Commission while Dr. Anjani Prasad Singh appeared for the respondent no.1- writ petitioner.

5. Learned Senior counsel appearing for the appellant submitted that the order impugned is unsustainable for the reason that the learned Single Judge failed to take into consideration the specific clause/condition mentioned in clause



6 of the Advertisement no.1/2019 which categorically provides that in case of an incorrect statement being made in the application form or in case the category to which the applicant belongs has not been correctly stated, the candidature of such candidates will be rejected. As such the candidates have been warned to verify the statements made by them in their application form; before submission.

6. Learned counsel appearing for the respondent no.1-writ petitioner in his response submitted that the mistake committed by the writ petitioner was a bonafide and a genuine mistake and it was not such a matter which could not be corrected. It was a curable defect and the petitioner's candidature was fit to be considered under the EBC category after curing the defect in view of the fact that she belonged to the EBC category.

7. Having heard learned counsel for the parties, it may be mentioned here that the matter relates to appointment to the post of Police Sub Inspector as also other posts for which the Commission came out with Advertisement no.1/2019, a copy of which is Annexure-1 to writ application. It is not in dispute that the petitioner, although she belonged to the EBC category, while filling up her application form stated her category to be BC and



participated in the examination as a candidate belonging to the BC category.

8. At this stage it would be relevant to reproduce herein below relevant part of clause 6 of the Advertisement no.1/2019 for ready reference:-

“ (6) आवेदन-पत्र रद्दीकरण.

.....

अभ्यर्थियों की आरक्षित श्रेणियाँ/वर्ग है- (1) आर्थिक रूप से कमजोर वर्ग (EWS), (2) अत्यंत पिछड़ा वर्ग (EBC), (3) पिछड़ा वर्ग (BC), (4) अनुसूचित जाति (SC) एवं (5) अनुसूचित जनजाति (ST) | आवेदन-पत्र में आवेदकों को अपनी श्रेणी का ही उल्लेख करना है। यदि आवेदक अपनी श्रेणी के स्थान पर किसी अन्य श्रेणी का उल्लेख करते हैं तो उनको उम्मीदवारी रद्द कर दी जायेगी। अतः आवेदक पूर्णतः आश्वस्त हो लें कि वे किस वर्ग अथवा जाति में है।”

9. From reading of relevant portion of clause 6 of the Advertisement reproduced herein above, it transpires that the same clearly stipulates that in case any applicant in place of his category mentions some other category, his candidature would be rejected. The clause further warns the applicant to ensure themselves of the category or caste that they belong to.

10. In the opinion of this Court, the term of the Advertisement being absolutely clear, the petitioner having



filled up her wrong category ie BC in place of EBC, her application was liable to be rejected and she was rightly not permitted to participate further in the selection process. Further in the opinion of this Court, the learned Single Judge committed an error, even in allowing the application of the petitioner in part, as stated herein above.

11. It would also be important to take note of the fact that before the final order was passed by the learned Single Judge, the Commission had mentioned the fact that the selection process had already been completed. Thus, the petitioner should have impleaded at least one of the candidates as a party-respondent in the writ application who would have been affected in case of grant of relief to the petitioner as made in the writ application. This Court finds that neither the petitioner impleaded any person as respondent in her writ application at the initial stage nor did she file any application even at the subsequent stage for impleading any person ie after completion of the selection process. On this ground also, the writ application was fit to be dismissed.

12. For the reasons stated herein above, the instant appeal filed by the Commission is fit to be allowed.

13. The order dated 8.12.2021 passed in CWJC



no.10583 of 2021 by the learned Single Judge is hereby set aside.

14. The appeal is allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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