

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2447 of 2023

Naincy Kumari daughter of Deepak Kumar, resident of Mohalla - Ward No. 21 Chanda Talkies, Station Road Madhepura, Police Station- Madhepura Sadar, District - Madhepura.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Animal and Fisheries Resource department, Government of Bihar, Patna.
2. The Principal Secretary, Animal and Fisheries Resource Department, Government of Bihar, Patna.
3. The Director, Fisheries Resource, Bihar Patna.
4. The Bihar Technical Service Commission through its Secretary, 19, Harding Road Patna.
5. The Secretary, Bihar Technical Service Commission, 19, Harding Road Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Karna, Adv.
For the State	:	Mr. Navnit Kumar AC to GP-18
For the BTSC	:	Mr. Nikesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 17-08-2023 Heard learned counsel for the petitioner, learned counsel for the Bihar Technical Service Commission as well as learned counsel for the State.

2. The petitioner's application has been treated as unreserved. She had applied for appointment as Fisheries Development Officer claiming benefit of reservation under the Extremely Backward Classes (EBC). The position is not in dispute that the advertisement required the certificate in support of the reservation to be of a date prior to 05.05.2021, whereas



the petitioner's certificate has been issued on 20.12.2021. It is this certificate, which was submitted at the time of counselling.

3. The Petitioner's counsel, however, submits that for reasons beyond his control, the certificate could not be obtained prior to the cut-off date. It is submitted that she has requested the authorities with sufficient cause to show that it was not her fault that the certificate could not be issued prior to cut-off date.

4. Learned counsel for the respondent-Commission, however, submits that in view of the terms and conditions laid down in the advertisement, and since the petitioner was admittedly not having the certificate in support of her reservation prior to 05.05.2021, being the cut-off date prescribed, the authorities have no discretion to condone the same. The petitioner, therefore, has rightly been treated as unreserved category in terms of the advertisement itself.

5. Considering the rival submissions, this Court would agree with the submissions advanced by the learned counsel for the respondent-Commission. The law is clear that the process of selection is to be circumscribed by the terms and conditions in the rules, under which the selection is being done, or the terms of advertisement so as to ensure non-arbitrary and non-discretionary and fair selection process. The petitioner,



admittedly, did not have the certificate prior to the cut off date prescribed in the advertisement, therefore, she can have no expectation, much less legitimate expectation that the certificate issued more than six months after the cut- off date can be accepted by the Commission in the process of selection. She has applied in response to the advertisement in accordance with the terms and conditions with open eyes. No case is made out for issuance of a writ to enforce a claim contrary to the terms and conditions governing the selection process. Similar claim of petitioner of CWJC No. 10926 of 2022 has been rejected vide order dated 17-11-2022.

6. Writ petition is accordingly dismissed.

(Madhuresh Prasad, J)

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