

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13498 of 2018

Jyoti Kumari, D/o Lal Bahadur Sah Resident of Bazar Pravejabvad Gola
Sonpur, P.S. Sonpur, District- Saran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Central Selection Board of Constable through its Secretary, Shrisai Tara Complex, I.A.S. Colony, Bailey Road, Patna.
5. The Chairman, Central Selection Board of Constable Shrisai Tara Complex , I.A.S. Colony, Bailey Road, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 24848 of 2018

Madhumala Kumari, Daughter of Raj Kumar Vishwakarma, R/o Village
Nehora, P.O. and P.S. Konch, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna,
4. The Chairman, Central Selection Board of Constable, Shri Sai Tara Complex, I.A.S. Colony, Bailey Road, Patna.
5. The Circle Officer, Konch, Gaya

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 13498 of 2018)

For the Petitioner/s	:	Ms.Archana Palkar Khopde, Advocate
For the Respondent/s	:	Mr.Manish Kumar, GP-4
		Mr. Sanjay Pandey, Advocate
		Mr. Vivek Anand Amritesh, Advocate
		Mr. Binod Kumar Mishra, Advocate

(In Civil Writ Jurisdiction Case No. 24848 of 2018)

For the Petitioner/s	:	Ms.Archana Palkar Khopde, Advocate
For the Respondent/s	:	Mr.Manish Kumar, GP-4
		Mr. Sanjay Pandey, Advocate
		Mr. Vivek Anand Amritesh, Advocate
		Mr. Binod Kumar Mishra, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE



ORAL JUDGMENT**Date : 19-05-2023**

The petitioners raise a common issue though there is slight distinction on facts, which does not effect the legal principle which has to be applied in the above matter. Both the petitioners were applicants in a selection conducted by the respondents to the post of Constable through the Central Selection Board, Patna. Both of them, in the reserved category, wrongly stated their reservation categories in the application form; which led to their application being rejected summarily. The petitioners claim consideration at least in the General Category, if not in the reserved category, since, it is a *bona fide* mistake in the category status; which, from the certificate issued, is not clear. The petitioners, in fact, seek indulgence of this Court on equitable principles, rather than asserting their rights. Learned counsel for the petitioners specifically relied on the judgement of the Hon'ble Supreme Court reported in **Dolly Chhanda vs Chairman, Jee & Ors; (2005) 9 SCC 779**.

2. This Court will first look at the judgment of the Hon'ble Supreme Court which was essentially on two issues, namely, the date of possession of requisite qualification, as distinguished from submission of its proof, and the error caused in submission of such proof. Therein, the appellant was



a candidate in the reserved category, who did not produce the required certificate to make her eligible under the category of children of persons disabled in war/hostilities. In fact, the certificate produced indicated in Column-3 that she was not eligible while the factual position was to the contrary. The appellant's father was discharged from the Army on account of permanent disability. The Hon'ble Supreme Court held that the general rule of a person having the eligibility on the last date fixed for receipt of application cannot be at all relaxed. But so far as production of proof is concerned, it would depend upon the facts of an individual case, as to whether the relaxation can be granted or not. The Hon'ble Supreme Court relied on an earlier judgment of **Charles K. Skaria & Ors. V. Dr. C. Mathew & Ors.; (1980) 2 SCC 752**, wherein it was stated that a mode of proof is geared to attain the goal of ensuring the required qualification and both cannot be treated mandatory. While the acquisition of the eligibility has to relegate back to the date specified, there cannot be any strict rule that the proof, though required to be given before a date, cannot be given a little later, especially when there is no dispute as to such qualification having been existing on the date specified. In **Dolly Chhanda** (supra), the proof was not before the Selection



Committee on the specified date because of the wrong issuance of a certificate by the certifying authority; which later stood corrected. As far as the judgment in **Charles K. Skaria** (supra), the qualifications were to be proved before the completion of selection, the certificates of which were unfortunately not produced by the three candidates.

3. It has to be emphasized that the aforesaid decisions turned on the peculiar facts in the said case. In the present case, the petitioner, in CWJC No. 13498 of 2018, had mentioned in her application that she was a Backward Community candidate (BC) while she was in the category of Extremely Backward Community (EBC). The certificate produced to show her reservation category, is also produced as Annexure-3 in the writ petition. Likewise, the petitioner in CWJC No. 24848 of 2018 mentioned her category as Scheduled Caste (SC) while she was a candidate belonging to the Scheduled Tribe (ST) category. She too produced her caste certificate at Annexure-3. It is the claim of the learned counsel for the petitioners that there is no clarity as to whether the first petitioner belongs to BC/EBC in the certificate and the other petitioner belongs to SC/ST category in Annexure-3, produced in both the writ petitions.



4. In this context, we have to look at the application form, which is produced as Annexure-1 in both the writ petitions. We specifically extract the following:-

"आवेदन-पत्र में यदि आवेदक गलत आरक्षण कोटि प्रविष्ट करते हैं तो उनकी उम्मीदवारी रद्द कर दी जायेगी । अतः ऐसे आवेदक पूर्णतः आश्वस्त हो लें कि वे किस वर्ग अथवा जाति में हैं ।

आरक्षित वर्ग के आवेदकों को सूचित किया जाता है कि अपनी कोटि / श्रेणी/जाति/वर्ग के संबंध में विस्तृत जानकारी प्राप्त करने हेतु सामान्य प्रशासन विभाग , बिहार सरकार की वेबसाइट <http://gad.bih.nic.in/> पर समय-समय पर जारी तत्संबंधी अद्यतन आदेशों का अवश्य अध्ययन कर लें । "

“(If the applicant mentions wrong reservation category in the application then his candidature shall be cancelled. Hence, such applicant should be assured as to which class or caste he belongs to.

The applicants of reserved class are informed that for getting detailed information about their category/caste/class, they must visit the website <http://gad.bih.nic.in/> of the General Administration Department, Government of Bihar, issued from time to time.)”

5. Hence, the Notification itself cautions the applicant about the need to mention the correct class or caste. The applicant who claims reservation has to mention the



specific class or caste, he/she belongs to in the application form; the failure of which would entail cancellation of the candidature. It is also specifically mentioned that for getting detailed information about the category/caste/class, they should visit the website of the General Administration Department, Government of Bihar. It is in this context, the caste certificate has to be looked at.

6. Jyoti Kumari, petitioner in CWJC No. 13498 of 2018, belongs to *KANU* caste coming within the Hindu Community recognized as Other Backward Class. Annexure-3, the certificate produced reads as follows:-

"कानू समुदाय, समय-समय पर यथासंशोधित अधिनियम के अंतर्गत बिहार राज्य की अत्यन्त पिछड़ा वर्ग (अनुसूची-1) / पिछड़ा वर्ग (अनुसूची-2) में अनुक्रमांक 2 पर अंकित है। अतः श्री/श्रीमती/सुश्री ज्योति कुमारी पुत्र/पुत्री लाल बहादुर साह अत्यन्त पिछड़ा वर्ग (अनुसूची-1)/पिछड़ा वर्ग (अनुसूची-2) का/की है। "

“(Kanu Community is mentioned at Sl. No. 2 of the Most Backward Class (Schedule-1)/Backward Class-Schedule-2) of the State of Bihar under (Scheduled Caste/Scheduled Tribe and Other Backward Class) Act, 1991 and as amended from time to time. Hence, Smt./Ms. Jyoti Kumari, D/o Lal Bahadur Shah belongs to Extremely Backward Class (Schedule-1)/Backward Class(Schedule-2).”



7. In the case of Madhumala Kumari in CWJC

No. 24848 of 2018, the certificate reads as follows:-

"लोहार समुदाय, जो की संविधान(अनुसूचित जाति) आदेश 1950, संविधान (अनुसूचित जनजाति) आदेश 1950, संविधान अनुसूचित जाति एवं अनुसूचित जनजाति सूचि (मोडिफिकेशन) 1956 एवं अनुसूचित जाति एवं अनुसूचित जनजाति आदेश (संशोधन) अधिनियम, 1976 एवं समय-समय पर यथासंशोधित अधिनियम के अंतर्गत बिहार राज्य की सूचि में अनुक्रमांक 22 पर अंकित है अतः श्री/श्रीमती/कुमारी मधुमाला कुमारी पुत्र/पुत्री राज कुमार विश्वकर्मा अनुसूचित जाति/अनुसूचित जनजाति का / की है। "

“(Lohar Community is mentioned at Sl. No. 22 in the list of the State of Bihar under the Constitution (Scheduled Caste) Order 1950, Constitution (Scheduled Tribe) Order 1950, Constitution Scheduled Caste & Scheduled Tribe List (Modification) 1956 and Scheduled Caste & Scheduled Tribe Order (Amendment) Act, 1976, as amended from time to time. Hence, Smt./Ms. Madhumala Kumari, D/o Sri Raj Kumar Vishwakarma belongs to Scheduled Caste/Scheduled Tribe.)”

8. Hence, it is very clear that the specific caste category mentioned therein, with serial number specified, with reference to the Notification brought out by the General Administration Department, as uploaded in the Website of the



Department, had to be verified and the correct caste/category/class had to be mentioned.

9. In the present case, this Court does not find any *bona fide* mistake having been committed and it only projects the laxity with which the candidate filled up the application form, with reference to the caste categorisation especially when there was a clear caution in the notification for selection, regarding cancellation of the candidature, if reservation category is not correctly mentioned. This would not only make a candidate ineligible to be considered in the reservation category but also would disqualify a candidate from consideration under the General Category. Within the reservation category, the candidate cannot be considered since others who submitted the application with the correct category of reservation and who also qualified and came within the zone of consideration cannot be prejudiced or their selection frustrated by reason of the equitable considerations given to two candidates who were not diligent in filling up the applications as required. Even in the General Category, the very same principle applies and it is very pertinent that none of the candidates who were selected were impleaded even in the representative capacity.



10. This Court finds absolute no reason to grant the prayers of the petitioners. This Court is also fortified in ruling so by the judgment dated 22.11.2016 in Civil Review No. 103 of 2015 in LPA No. 1221 of 2021, titled as **The Central Selection Board of Constable, Bihar & Ors. Vs. Raj Kumar & Ors.**, wherein a Division Bench considered a similar issue and rejected the claim based on another co-ordinate Bench in LPA No. 1276 of 2012, titled as **Anil Kumar Vs. State of Bihar & Anr.**, decided on 10.01.2013. Recently, a Division Bench of this Court in LPA No. 46 of 2022, titled as **The Chairman, Bihar Police Sub-ordinate Services Commission & Anr. vs. Dolly Kumari & Ors.** decided on 15.05.2023, rejected a similar claim.

11. The writ petitions would stand dismissed, leaving the parties to suffer their respective costs.

(K. Vinod Chandran, CJ)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	21.06.2023
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