

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3204 of 2011

- 1.1. Nirmala Kumari, Wife of late Pramod Kumar, Resident of Mohalla- New Bahadurpur Road No. 13B, Marwari Colony, Sampatchak, Patna Rajendra Nagar, P.S. Bahadurpur, District- Patna.
- 1.2. Kumar Rahul, Son of late Pramod Kumar, Resident of Mohalla- New Bahadurpur Road No. 13B, Marwari Colony, Sampatchak, Patna Rajendra Nagar, P.S. Bahadurpur, District- Patna.
- 1.3. Kumar Mritunjay, Son of late Pramod Kumar, Resident of Mohalla- New Bahadurpur Road No. 13B, Marwari Colony, Sampatchak, Patna Rajendra Nagar, P.S. Bahadurpur, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through its Chief Secretary, Government of Bihar, Old Secretariat, Bihar, Patna
2. Principal Secretary, Department Of Genral Administration, Government Of Bihar, Old Secretariat, Patna
3. Under Secretary, Department Of General Administration, Government Of Bihar, Old Secretariat, Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Learned Advocate General Mr. P.K. Verma, AAG 5 Mr. Saroj Kumar Sharma, Advocate Mr. Sanjay Ghosharvey, AC to AAG 3

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 12-07-2023

Pursuant to earlier order dated 05.07.2023, Mr. *B. Rajendra*, Principal Secretary, Department of General Administration, Government of Bihar, Patna is present in the Court.



2. In the instant writ petition, deceased – *Pramod Kumar Singh* (for short referred as ‘deceased Officer’) had prayed for the following relief:

“That this writ application is being filed for quashing the order dated 30.1.2011 (vide Annexure – 21) whereunder and wherein the petitioner has been dismissed from his service by the Under Secretary, Department of General Administration, Government of Bihar (Respondent No. 3).”

3. The deceased Officer was initially appointed as Assistant Registrar, Co-operative Society through competitive selection in the 23rd Combined Competitive Examination conducted by the Bihar Public Service Commission (hereinafter referred to as “BPSC”) in the year 1976. While he was in service he had applied for the 26th Combined Competitive Examination and selected as a Deputy Collector in the year 1979. The deceased Officer was selected under the Scheduled Caste category.

4. In this backdrop, for the first time, the official respondent noticed that the deceased Officer who had submitted caste certificate to obtain appointment to the post of Assistant Registrar, Co-operative Society had furnished alleged fake caste certificate with reference to the fact that deceased Officer’s father



was a *Brahmin* and mother was of Scheduled Caste. In this regard, parallel proceedings have been initiated. In the year 1998 F.I.R. was registered whereas on 29.03.2007 charge memo was issued on a departmental inquiry. The alleged allegations in a departmental inquiry is that the deceased Officer had furnished forged caste certificate of Scheduled Caste in the backdrop of the fact that the deceased Officer's father was a *Brahmin* and mother was of Scheduled Caste. The inquiry was concluded in imposition of penalty of dismissal from service on 30.01.2011. It is to be noted that dismissal from service is one day before his attaining age of superannuation from service if he was in service.

5. Learned counsel for the petitioners – legal heirs of deceased Officer submitted that during pendency of the litigation the Officer has died on 05.09.2018, thereafter, the present matter is persuaded by the legal heirs of the deceased Officer.

6. Learned counsel for the petitioners submitted that production of fake or forged Scheduled Caste certificate furnished by deceased Officer has not been proved in the departmental inquiry and in the manner known to the law what has been proved is only to the extent that official respondent had demanded production of caste certificate of the deceased Officer for verification on 12.05.2005. The deceased Officer was not in



possession of caste certificate issued in the year 1976 with reference to his initial appointment to the post of Assistant Registrar, Co-operative Society.

7. It is further submitted that custodian of the selection records are BPSC and the appointing authority to the deceased Officer. In the event of non-availability of caste certificate of the deceased Officer issued in the year 1976, the framing of charge that the deceased Officer produced fake or forged caste certificate is not tenable. It is also submitted that to hold that caste certificate is fake, evidence has not been adduced except the fact that the deceased Officer's father was a *Brahmin* and mother was Scheduled Caste. It is also submitted that the initiation of inquiry was in the year 2007 whereas the order of dismissal was just one day before his retirement i.e. on 30.01.2011. In this regard, learned counsel for the petitioners submitted that imposition of penalty of dismissal from service is with reference to the proved charge that the deceased Officer failed to produce second caste certificate as and when official respondent demanded.

8. *Per contra*, learned counsel for the respondents – State resisted the aforesaid contentions and submitted that it is undisputed fact that the deceased Officer's father was a *Brahmin* and mother was of Scheduled Caste which suffice that the



deceased Officer was not entitled to Scheduled Caste certificate. Therefore, there is no infirmity in imposition of penalty of dismissal from service.

9. Heard learned counsels for the respective parties.

10. Perusal of the records, it is to be noted that framing of charge itself is in the absence of original caste certificate produced at the time of appointment. In order to prove that deceased Officer had produced a fake caste certificate in the year 1976, the same is required to be placed and marked in the departmental inquiry before Inquiring Officer to prove that the caste certificate was fake or forged. That apart, caste certificate produced by the petitioner in the year 1976 has not been cancelled by competent authority in the manner known to the law. It is to be noted that when caste certificate issued in the year 1976 is not available, in such an event question of proving the fake or forged caste certificate produced by the petitioner is highly impracticable.

11. What has been proved in the departmental inquiry is that the deceased Officer failed to produce caste certificate as and when demanded by official respondents on 12.05.2005. The official respondents are custodian of the records relating to selection and appointment of the deceased Officer with reference to the year 1976 to the post of Assistant Registrar, Co-operative



Society read with Deputy Collector post in the year 1979. In such an event, the official respondents cannot demand caste certificate issued in the year 1976 as it was seized by the BPSC or appointing authority. In this regard, it is fairly submitted on behalf of official respondents that they do not have records relating to selection and appointment to the post of Assistant Registrar, Co-operative Society and Deputy Collector in the year 1976 and year 1979 respectively.

12. Taking note of the dates and events, it was bounden duty of the selecting and appointing authority to keep the original records submitted by the respective selected and appointed candidates. That apart, it is noticed that for the first time question of alleged fake or forged certificate produced by the deceased Officer was raised in the month of December, 1998 and, thereafter, official respondents have taken nine years to initiate departmental inquiry in framing of charges on 29.03.2007 and further for conclusion they have taken four long years.

13. Further, it is noticed that foundation material like caste certificate furnished by the petitioner at the time of initial appointment to the post of Assistant Registrar, Co-operative Society and second appointment to the post of Deputy Collector in the year 1979, they were in possession with official respondent.



When they are custodian of those records, it is not appropriate to demand caste certificate in the year 2005 after a lapse of more than two decades with reference to his initial appointment in the year 1976 and year 1979. Criminal proceedings is stated to be quashed in a judicial proceedings.

14. Having regard to the fact that deceased Officer was dismissed on 30.01.2011 read with the fact that if he was in service he would have attained age of superannuation and retired from service on 31.01.2011 and further, during pendency of the present petition he had died on 05.09.2018, therefore, it is not a case for remand so as to examine whether the deceased Officer has furnished alleged fake certificate at the time of appointment with reference to various judicial pronouncements on the subject of production of alleged fake certificate, which is required to be examined in the light of Apex Court decisions relating to constitution of committee and other issues.

15. Accordingly, order dated 30.01.2011 (Annexure - 21) stands set aside.

16. The concerned official respondent or appointing authority to the deceased Officer is hereby directed to extend all service and monetary benefits of the deceased Officer to his legal heirs/nominee. The concerned officer is hereby directed to re-fix



his pay, grant time to time increments including revision of pay and re-fix his pay and pension and release all monetary benefits within a period of eight weeks from the date of receipt of copy of this order, failing which the petitioners-legal heirs of the deceased Officer are entitled to litigation cost and it is quantified @ Rs. 1 lakh.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2023
Transmission Date	NA

