

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5754 of 2019

Dr. Vinita Kumari W/o Sanjay Kumar Gupta C/o Gupta Market, Boring Road,
P.S- S.K. Puri, Distt.- Patna- 800001 (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Principal Secretary Health Department, Government of Bihar, Patna.
3. Bihar Public Service Commission Through the Chairmen, 15 Jawaharlal Nehru Marg, Bailey Road, Patna-800001.
4. The Chairman Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna-800001.
5. Joint Secretary- Cum- Examination Controller Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna-800001.
6. The Selection Committee for the post of Basic Grade Dentist Adv. No. 05/2015.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar Gupta, Adv
For the Respondent/s	:	Mr.Chitranjan Sinha (Paag 2)
		Mr. Anil Kumar Verma, AC to AAG-9
For the B.P.S.C	:	Mr. Sanjay Pandey, Adv
		Mr. Nishant Kumar Jha

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 06-08-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for quashing of the merit list prepared by the Joint Secretary cum Examination Controller, Bihar Public Service Commission, Patna dated 29.09.2018 (Annexure-6) pursuant to Advertisement No. 05/2015 in relation to the appointment of basic grade Dentist in the State of Bihar and further prayer has been made to re-conduct the interview of the petitioner.



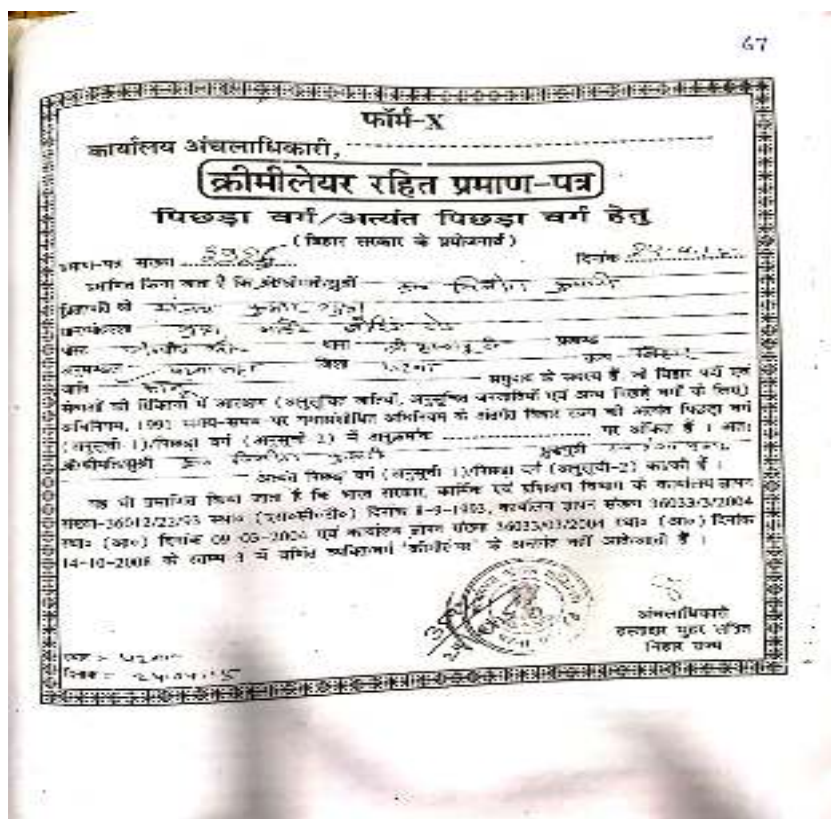
3. Counsel for the petitioner submits that the petitioner belongs to E.B.C category candidate and petitioner has participated in the examination process. In the examination process, the petitioner has been awarded in total 49.5 marks but the Cut-Off marks for selection for the post of E.B.C category is 40.45. Counsel submits that B.P.S.C has not selected the petitioner because they have treated the petitioner as General Category candidate and not under E.B.C. Category candidate instead of that the petitioner has claimed herself as E.B.C. category for which she has also submitted the Non-Creamy Layer certificate which is Annexure-7 of the writ petition.

4. Counsel for the BPSC submits that in the advertisement as well as in the interview, there was categorical direction that those who belongs to backward category or E.B.C. category shall have to produce Non-Creamy Layer certificate issued by Circle Officer.

5. Counsel submits that in this regard, special notice has been published by the B.P.S.C. in which it has been mentioned that Non-Creamy Layer certificate shall be in the name of the father and not in the name of the husband. Counsel for the BPSC further submits that the certificate issued by the petitioner was in the name of her husband, therefore, his



6. In-response thereof, counsel for the petitioner submits that Annexure-7 is the Non-Creamy Layer certificate in which address of husband is given but reference that petitioner belongs to Non-Creamy Layer has been issued in the name of the petitioner's father which is apparent from the Annexure-7. The said Non-Creamy Layer certificate issued is scanned below:



7. Counsel for the BPSC submits that the said interview has taken place in the year 2018 but the said certificate is of the year 2015 and he submits that Non-Creamy



Layer certificate is valid only for one year.

8. It transpires to this Court that the advertisement came in the year 2015 and the certificate is also of the year 2015, therefore, there is no delay and if there is delay in the appointment, then in that case, the clear cut instruction has to be issued but no such instruction is there.

9. As such, this Court is of the firm view that respondent BPSC at the time of deciding the result of the petitioner's writ petition had not taken not consideration, the entire aspect of the matter.

10. Accordingly, the present writ application is allowed.

11. BPSC is directed to consider the case of the petitioner for appointment on the basis of Annexure-7 within 90 days from the date of the production of the order.

(Dr. Anshuman, J)

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