

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10202 of 2024

Neetu Kumari W/o-Manoj Kumar Prasad, D/o-Dashrath Chandra Pal,
Resident of Mohalla-Deo Villa Indrapuri, Road No.-Zero, Post-Keshrinagar,
P.S.-Patliputra, District-Patna.

... .. Petitioner/s

Versus

1. The Bihar State University Service Commission 8th Floor, Bihar School Examination Board Academic Building Budh Marg, Patna-800001, through its Secretary.
2. The Chairman, Bihar State University Service Commission 8th Floor, Bihar School Examination Board Academic Building Budh Marg, Patna.
3. The Principal Secretary, Education Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna.
4. The Additional Chief Secretary Education Department, Govt. of Bihar, Vikash Bhawan, New Secretariat, Patna.
5. The Director, Higher Education Department, Govt. of Bihar, Vikash Bhawan, New Secretariat, Patna.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. Ashok Chaudhary, Sr. Advocate
Mr. Arvind Kr. Singh, Advocate
Mr. Ranjit Kumar, Advocate

For Bihar State University
Service Commission : Mr. Harsh Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA

ORAL JUDGMENT

Date : 06-08-2024

Heard Mr. Ashok Chaudhary, learned Senior
counsel for the petitioner and Mr. Harsh Singh, learned
counsel for the Bihar State University Service Commission.

2. The petitioner has filed this writ petition seeking
a direction to the respondents to accept the Non Creamy
Layer certificate of the petitioner and treat her candidature as
reserved category candidate of Backward Class for her



appointment as Assistant Professor in department of Economics in any constituent college of the State of Bihar, pursuant to advertisement dated 21.09.2020 issued by the Bihar State University Service Commission (hereinafter referred to as 'the Commission').

3. By the aforesaid advertisement issued by the Commission, the Commission has invited application for filling up various posts of Assistant Professors including Assistant Professor in department of economics, wherein 30 posts of Assistant Professor (Economics) for candidates of Extremely Backward Class was also advertised. As per Clause 8.3.5 and 11.1 of the advertisement, the applicant was required to submit various documents specified therein including the Non Creamy Layer Certificate by those candidates, who are claiming reservation under Extremely Backward Class category. The last date for submission of the application along with the documents prescribed was 02.11.2020, which was extended to 20.12.2020 (according to the Commission, it was 30.12.2020).

4. It is the case of the petitioner that admittedly the petitioner did not submit N.C.L. certificate along with her application within the stipulated time for submission in the



advertisement. The petitioner now prays for a direction to the respondents that she being a candidate belonging to Extremely Backward Class has now been issued Non Creamy Layer certificate and that her N.C.L. certificate may now be accepted and she may be treated as candidate belonging to Extremely Backward Class. It is relevant to mention here that the Commission, in the absence of N.C.L. certificate submitted by the petitioner, had treated the petitioner as general candidate.

5. The Commission has filed a counter affidavit, wherein it has been stated that Clause 8.3.2 of the advertisement categorically required that the candidate belonging to the Backward Class / Extremement Backward Class category to mandatorily submit amongst others the Non Creamy Layer certificate. Clause 8.3.5 of the advertisement makes it abundantly clear and categorical that the benefit of reservation extended to a reserved category candidate would not be available if relevant certificates are not enclosed with the application and no claim for such reservation would be entertained at any subsequent stage. It further states that Clause 11.1 of the advertisement provides that candidates should send the downloaded hard copy of the



application form enclosing all required certificates through registered / speed post so as to reach the Commission before 24.11.2020 till 5 pm, which was extended to 30.12.2020 till 5 pm.

6. Learned senior counsel appearing for the petitioner has not disputed that the application form along with the relevant certificates including N.C.L. certificate was required to be submitted before 5 pm of 30.12.2020 and that the petitioner admittedly did not submit N.C.L. certificate along with her application before the last date for submission, i.e., on 30.12.2020.

7. The first set of his argument for acceptance of Non Creamy Layer certificate of the petitioner after the last date of submission prescribed by the Commission in the advertisement is by referring to Annexure B of the counter affidavit filed by the Commission. Annexure B is a proceeding of 54th meeting of the Commission held on 12.08.2021 under the chairmanship of Dr. Rajvardhan Azad, Chairman of the Bihar State University Service Commission. Learned senior counsel has specifically referred to Clause 2 thereof to contend that in the aforesaid 54th meeting of the Commission held on 12.08.2021, the Commission had



decided to allow submission of Non Creamy Layer certificate at the time of interview for the candidates, who have not submitted the N.C.L. certificate along with the application form within the stipulated time prescribed in the advertisement.

8. Relying on Clause 2 of 54th meeting of the Commission (Annexure B of the counter affidavit), learned senior counsel for the petitioner has prayed for a direction from this Court to the respondents to allow the petitioner to submit her N.C.L. certificate.

9. Clause 2 of proceedings of the 54th meeting of the Commission held on 12.08.2021 under the chairmanship of the Chairman of the Commission is extracted hereinbelow :

“2. सर्वसम्मति से निर्णय लिया गया कि भारत सरकार के सेवार्थ Format में निर्गत क्रीमीलेयर रहित प्रमाण पत्र में यदि EBC/BC कोटि में जाति का स्पष्ट उल्लेख है तो यह प्रमाण -पत्र औपबधिक रूप से मान्य होगा लेकिन साक्षात्कार के समय बिहार राज्य के सेवार्थ Format (X) में निर्गत क्रीमीलेयर रहित प्रमाण पत्र उपलब्ध कराना अनिवार्य होगा।”



10. The english translation of the aforesaid Clause 2 of 54th meeting of the Commission has been provided by the learned counsel for the Commission to the learned senior counsel for the petitioner, who, after cross verification of the same has submitted across the board for perusal by the Court.

11. On perusal of the english translation provided by the learned counsel for the parties, it transpires that Clause 2 of 54th meeting of the Commission held on 12.08.2021 reads as under :

“It has been unanimously decided that if the Non Creamy Layer certificate issued by the Govt. of India specifies the name of EBC / BC caste, then the same would be provisionally permitted subject to submission of Non Creamy Layer certificate in Form ‘X’ issued by the State of Bihar at the time of interview.”

12. From perusal of the decision taken in the 54th meeting of the Commission held on 12.08.2021 vide resolution under Clause 2, it appears that the Commission had decided to allow submission of Non Creamy Layer certificate in Form ‘X’ issued by the State of Bihar at the time of interview to those candidates, who had submitted Non Creamy Layer certificate issued by the Govt. of India,



specifying the name of EBC / BC caste, who, then, would be provisionally permitted to appear in the interview.

13. It is not the case of the petitioner that the petitioner had submitted Non Creamy Layer certificate issued by the Govt. of India along with her application within the period stipulated in the advertisement.

14. Accordingly, I find that Clause 2 of proceedings of the 54th meeting of the Commission held on 21.08.2021 is inapplicable in the case of the petitioner.

15. That apart, it is a settled position of law, since the judgment rendered by the Full Bench of this Court in the case of *Braj Kishore Prasad vs. State of Bihar* reported in *1998 (3) PLJR 34* that, where the advertisement specifies the last date for filing of supporting or other documents, that date must be given effect to, and any document received after such date shall be rejected by the selecting authority and that no application / document shall be entertained by the Commission if the same is filed after the last date specified in the advertisement, or the extended date notified by the Commission, even if the same is filed before the finalisation of the select list.



16. For the reasons stated above, I am of the view that no direction sought for by the petitioner in the instant case can be given to the respondents to accept the N.C.L. certificate at this stage. Nor has the petitioner made out a case of extreme hardship or injustice resulted on account of factors beyond the control of the petitioner requiring exercise of the writ jurisdiction of this Court.

17. In the result, the writ petition stands dismissed being devoid of merit.

(Nani Tagia, J)

Narendra/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.08.2024
Transmission Date	N.A.

