

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15497 of 2022

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Puja Kumari @ Pooja Kumari Daughter of Pradeep Gupta, Resident of
Dumri, P.O. - Nand Gola, P.S.- Tikapatti, District - Purnia, Bihar - 854101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Bihar Staff Selection Commission through its Secretary, Veterinary College, Patna - 800014.
4. The Chairman, Bihar Staff Selection Commission, Veterinary College, Patna - 800014.
5. The Secretary, Bihar Staff Selection Commission, Veterinary College, Patna - 800014.
6. The Controller of Examination, Bihar Staff Selection Commission, Veterinary College, Patna - 800014.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shailesh Kumar, Advocate
For the State	:	Mr.Md. N.H. Khan (Sc1)
		Md. Harun Quareshi, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 12-03-2024

The present writ petition has been filed seeking the
following reliefs:-

“i. For issuance of an order, direction or an appropriate writ for setting aside the result of 1st Inter Level Combined Competitive Examination 2014 published on 27.06.2022 against advertisement number 06060114 dated 01.09.2014 to the extent to which the candidature of the petitioner has been considered under the Unreserved Category instead of EBC Category on the ground that the



category mentioned in online application form (BC) differed from Non-Creamy Layer Certificate wherein EBC (Caste- Halwai) was mentioned.

ii. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to consider the candidature of the petitioner under the MBC (EBC) Category inasmuch as the petitioner stands qualified in the preliminary as well as the mains examination under the EBC Category to which she belongs.

iii. For issuance of an order, direction or an appropriate writ for directing the respondent authorities to keep one seat under the EBC Category against advertisement number 06060114 dated 01.09.2014 during the pendency of the present writ application.”

2. Admittedly, the present case is a case of category mismatch, inasmuch as though the petitioner had filled her reservation category in the application form as BC, however, at the time of counseling, she had failed to produce the BC Caste certificate and had instead produced EBC caste certificate.

3. The learned counsel for the petitioner has submitted that on account of mistake in filling the application form, the category mismatch has taken place, hence a sympathetic view be taken.

4. This Court finds that the issue is no longer res



integra, inasmuch as this Court, in a judgment rendered in the case of ***Jyoti Jaiswal vs. the State of Bihar & Ors***, reported in ***2021 (3) PLJR 489***, has already held that the candidate who has wrongly filled the reservation category in the application form and has later not been able to produce the said category caste certificate, his/her candidature is liable to the disqualified.

5. It would be relevant to refer to paragraph nos.8, 9, 12 and 13 of the aforesaid judgment rendered in the case of ***Jyoti Jaiswal*** (surpa), which are reproduced, hereinbelow:-

“8. The learned counsel for the BPSSC has further submitted that the prelims. examination was conducted in between 11.03.2018 to 15.04.2018 and the petitioner had been declared to have passed under the Extremely Backward Class category, whereafter the mains examination was held on 22.07.2018 and again, the petitioner was shown to have passed under the Extremely Backward Class category, in the result published on 06.08.2018, whereupon, the physical test was held on 28.09.2018, however, during the course of verification of documents, the petitioner could not produce the extremely backward class certificate, hence, the petitioner was disqualified on account of the following reason "mismatch in application form with original documents". The learned counsel for the BPSSC has further submitted that on account of the aforesaid reason, the representation of the petitioner has stood rejected by the impugned order dated 15.03.2019. It has also been stated



*that the final result has already been published by the Respondent-BPSSC on 09.03.2019 wherein 1665 candidates have been declared successful out of 1717 vacancies and 52 vacancies have remained unfilled on account of non-availability of suitable scheduled caste candidates. Thereafter, the BPSSC vide memo dated 17.03.2019 has also sent the recommendation of the successful candidates to the concerned Department for appointment on the post of Police Sub-Inspector, whereafter the appointments have also been made, hence, the entire selection process has already stood over long back. It is submitted that thereafter, a fresh selection process had also been initiated and the same has also been completed. The learned counsel for the BPSSC has also submitted that the judgment referred to by the learned counsel for the petitioner rendered in the case of **Ram Kumar Gijroya** (supra) is distinguishable in the facts and circumstances of the present case inasmuch as the case in hand before the Apex Court was with regard to non-submission of the OBC certificate within the cut-off date mentioned in the advertisement whereas in the present case, the petitioner has falsely mentioned her class/caste category as Extremely Backward Class instead of Backward Class, hence, the present case is a case of furnishing of wrong documents as well, thus, her candidature has itself been rendered invalid in view of the terms and conditions stipulated in the advertisement no. 1 of 2017. In this regard, the learned counsel for the BPSSC has referred to a judgment rendered by the Hon'ble Division Bench of this Court in the case of*



Central Selection Board of Constable vs. Raj Kumar, reported in 2017(1) PLJR 599, paragraph nos. 11, 12 and 14 whereof are reproduced hereinbelow: -

"11. Sri Rajendra Prasad Singh, learned Senior Counsel, then, raised the plea that the petitioners, having been permitted, pursuant to direction, to sit in the preliminary test and participate in interview, it is not open to the Central Selection Board (Constable Recruitment) to as such cancel the candidature. The answer to this is to be found in the case of T. Jayakumar v. Gopu sincere reported in (2008)9 SCC 403; and in particular paragraph 12 thereof which reads as such:

"12. We are not aware of any principle of law under which once a candidate is allowed participation in the selection process, the selection authority is precluded from examining whether his application was complete, in order, within time or otherwise acceptable. A defect in the application form that renders the candidate ineligible might be overlooked in the initial screening and as a result he may be called for interview and may get a chance to take part in the selection process but that alone does not mean that the candidate cannot be held ineligible for selection at a later stage once the defect in the application comes to light."

12. Thus, in law, we find that the writ petitioners



having given a wrong declaration in his application form, which he could not be substantiated by original document, makes their candidature itself invalid. It is a case of wrong categorization which is material for the selection process and become more material when it comes to stage of appointment.

14. Thus, we allow this Review Application and recall our judgment and order dated 26.02.2015, passed in Letters Patent Appeal No. 1221/2012, and consequently, we would not interfere with the writ courts order which dismisses the writ petition. The appeal would thus stand dismissed."

9. The learned counsel for the BPSSC has also relied on some other judgments, which are being enumerated herein below along with their relevant paragraphs: -

*(i) (2011)12 SCC 85 (**Bedanga Talukdar vs. Saifudaullah Khan & Others**), paragraphs no. 29 to 32 whereof are reproduced hereinbelow: -*

"29. xxx xxx xxx.

30. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of Respondent 1. Such a course would not be permissible as it would violate the mandate of



Articles 14 and 16 of the Constitution of India.

31. In our opinion, the High Court was in error in concluding that Respondent 3 had not treated the condition with regard to the submission of the certificate along with the application or before appearing in the preliminary examination, as mandatory. The aforesaid finding, in our opinion, is contrary to the record.... .

32. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice. In such circumstances, the High Court could not have issued the impugned direction to consider the claim of Respondent 1 on the basis of identity card submitted after the selection process was over, with the publication of the select list."

(ii) (2005)7 SCC 177 (A.P. Public Service Commission vs. Koneti Venkateswrrulu & Others), paragraph no. 7 whereof is reproduced hereinbelow: -



"7. We are unable to accept the contention of the learned counsel for the first respondent. As to the purpose for which the information is called for, the employer is the ultimate judge. It is not open to the candidate to sit in judgment about the relevance of the information called for and decide to supply it or not. There is no doubt that the application called for full employment particulars vide column 11. Similarly, Annexure III contained an express declaration of not working in any public or private employment. We are also unable to accept the contention that it was inadvertence which led the first respondent to leave the particulars in column 11 blank and make the declaration of non-employment in Annexure III to the application. The application was filled on 24.7.1999, the examination was held on 24.10.1999, and the interview call was given on 31.1.2000. At no point of time did the first respondent inform the appellant Commission that there was a bona fide mistake by him in filling up the application form, or that there was inadvertence on his part in doing so. It is only when the appellant Commission discovered by itself that there was suppressio veri and suggestio falsi on the part of the first respondent in the application that the respondent came forward with an excuse that it was due to inadvertence. That there has been suppressio veri and suggestio falsi is incontrovertible. The explanation that it was irrelevant or emanated



from inadvertence, is unacceptable. In our view, the appellant was justified in relying upon the ratio of Kendriya Vidyalaya Sangathan [(2003)3 SCC 437 : 2003 SCC (L&S) 306] and contending that a person who indulges in such suppressio veri and suggestio falsi and obtains employment by false pretence does not deserve any public employment. We completely endorse this view."

(iii) 2013(4) PLJR 1 (DB) (Anil Kumar vs. The State of Bihar & Ors.), paragraphs no. 4 to 6 whereof are reproduced hereinbelow: -

"4. The appellant approached this Court under Article 226 of the Constitution for a direction to the respondent State of Bihar to appoint the appellant as a constable. According to the appellant, pursuant to the advertisement published on 11th December, 2009, he had applied for appointment as constable in Bihar Military Police/Bihar Police. The appellant applied for such appointment as Extremely Backward Class candidate but he could not produce the certificate of Extremely Backward Class. His candidature was, therefore, rejected. Before the learned Single Judge the appellant raised the contention that since he belonged to a Backward Class community and had produced the certificate to that effect, the respondents should have considered his case as a Backward Class candidate. The learned Single Judge has rejected the contention and has dismissed the writ petition.



Therefore, this Appeal.

5. There is no dispute that the claim made by the appellant in the application form was not supported by the requisite document. The contention that the appellant ought to have been treated as a Backward Class candidate irrespective of the contrary information given by him in the application has rightly been rejected by the learned Single Judge.

6. No case for interference is made out."

*12. This Court, on the contrary, finds that the present case is squarely covered by the judgments rendered by the learned Division Bench of this Court in the case of **Central Selection Board of Constable vs. Raj Kumar** (supra) and in the case of **Anil Kumar** (supra) as also by the one rendered by the Hon'ble Apex Court in the case of **Bedanga Talukdar** (supra). This Court, upon having considered the submissions advanced by the learned counsel for the petitioner, finds that the petitioner had filled the wrong Class/caste category in the application form, thus she has engaged in suppressio veri and suggestio falsi inasmuch as if the petitioner was knowing that she has applied under the EBC category instead of the BC category, nothing had prevented her from either bringing the said fact to the notice of the authorities at the time of sitting in the prelims. examination or the mains examination itself or having not at all appeared in the prelims. examination or the mains examination as an*



*EBC category candidate knowing fully-well that she belongs to the BC category, hence, such a person does not deserve any sympathy. In this connection, reliance is placed on a judgment rendered by the Hon'ble Apex Court in the case of **A.P. Public Service Commission** (supra).*

13. Last but not the least, this Court finds that the petitioner had taken a chance and waited till the last moment i.e. till the respondent-BPSSC had itself discovered that the petitioner has engaged in suppressio veri and suggestio falsi inasmuch as she had furnished the wrong class/caste category in the application form. It would be relevant to mention here that another instance of suppression and twisting of facts is apparent from the pleadings made in the writ petition to the effect that the petitioner, in her application dated 17.09.2018, annexed as Annexure-5 to the writ petition, has stated that when her certificates were examined by the respondent authorities then she came to know that the class/caste category mentioned in the application form is not tallying with the caste certificate, but it would be apparent from paragraph no.11 of the counter affidavit filed on behalf of the Bihar Police Subordinate Service Commission that the documents were verified only on 28.09.2018, the date on which physical evaluation test was being held, hence, obviously, the petitioner is not speaking the truth and has not approached this court with clean hands.”

6. At this juncture, the learned counsel for the



petitioner has fairly contended that a similar writ petition, involving similar issue, has stood dismissed by a co-ordinate Bench of this Court, vide order dated 08.03.2021, passed in CWJC No.6173 of 2021 (Saurav Kumar & Ors. vs. the State of Bihar & Ors.).

7. Having regard to the facts and circumstances of the case and for the foregoing reasons, as also considering the fact that the issue involved in the present writ petition is squarely covered by the judgment rendered by this Court in the case of *Jyoti Jaiswal* (Supra), I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.03.2024
Transmission Date	NA

