

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.717 of 2022

In
Civil Writ Jurisdiction Case No.1250 of 2020

=====

J. Lalu Kumar Son of Sri Jaleshwar Sah, Resident of Village Barapaker,
Dulma, P.S. Madhuban, District - East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. Bihar Staff Selection Commission, Patna through its Secretary.
4. The Secretary, Bihar Staff Selection Commission, Patna.
5. Member-cum-Examination Controller, Bihar Staff Selection Commission, Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Arjun Kumar, Advocate
For the Respondent/s	:	Mr. S.D. Yadav, AAG 9
		Mr. B.B. Mishra, A.C. to AAG 9

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

- 3 24-07-2024 The appellant was aggrieved with the non-selection under the Most Backward Category ('MBC' in short) which the respondents asserted was by reason of non-production of the Non-Creamy Layer Certificate. The appellant applied under the MBC and having obtained the cut-off marks for MBC candidates was called for counseling. In the counseling he was obliged to produce all the certificates to prove his candidature for the post not only regarding eligibility but also with respect to



his category. Non-Creamy Layer Certificate is one of the essential things to claim MBC category. Admittedly, he did not produce the same. The certificate was to be produced on 19.5.2016 and he did not produce it despite the fact that the certificate was issued on 18.5.2016.

2. The respondents also took up a contention that he was considered as a general candidate but having not obtained the cut-off marks of a general candidate was excluded from such consideration.

3. Learned counsel for the appellant pointed out that for the MBC category the cut off marks was 28.90 while for the general category it was 34.

4. In the circumstances, the appellant having obtained 29.24 marks he could only have been sent for the MBC interview and not for the general category. The learned Single Judge has specifically found that the contention raised by the respondents that he was considered for the general category cannot be accepted and that was a mistake. The learned Single Judge agreed that the appellant could not have been considered under the general category at all since he did not have the cut-off marks.

5. As far as the consideration under the MBC it goes



only with Non-Creamy Layer Certificate which the appellant did not admittedly produce at the time of counseling. The appellant cannot claim a consideration merely on the ground that he had obtained the certificate on the previous day. It is also to be noticed that no candidate who obtained the appointment in his place, has been impleaded as a respondent also.

6. On the totality of the circumstances, we are of the opinion that the appeal cannot be entertained.

7. We dismiss the appeal.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Bibhash

U			
---	--	--	--

