

9.5.2024  
Ct.35,sl.10  
sk

**WPA 7355 of 2022**

Sipra Sarkar-vs-State of West Bengal & Ors.

Mr. Siva Prosad Ghosh  
Mr. Abhishek Shaw  
....for the petitioner.

Mr. Bhaskar Prasad Vaisya  
Mr. Pinaki Bhattacharyya  
...for the DPSC(N), 24-Parganas.

Mr. Supriyo Chattopadhyay  
Ms. Iti Dutta  
...for the State.

The petitioner is aggrieved that in spite of her obtaining total 20.37 marks in aggregate, her candidature has not been considered by the respondent Council, though the persons obtaining marks below her, has been empanelled for appointment. Thus, she has filed this writ petition.

The factual background of the case in brief is required to be mentioned here. The examinations were held in 2011 pursuant to the direction of the Court, the results were ultimately published in 2011.

The Council prepared the panel of successful candidates, the last of whom had obtained an aggregate marks 8.95. The writ petitioner's grievance is that in spite of her obtaining marks (20.37) much more than the last empanelled candidate, her name has not been enlisted in the panel.

Mr. Bhaskar Prasad Vaisya, learned advocate is appearing for the respondent/Council and submits a

report in the form of an affidavit, in Court. The same is taken on record.

Mr. Ghosh has submitted that the writ petitioner was considered as an unreserved general category candidate, due to the reason that she has not been able to produce any legally acceptable document in support of her claim of reservation in the exempted category. So far as the unreserved general category candidates are concerned, the writ petitioner has not come within the zone of consideration as per the merit, he says.

Mr. Ghosh has further submitted that the result of the writ petitioner is still withheld, in view of the fact that she has not been able to produce adequate document in support of her exempted category status.

Such submission however, appears to be self contradictory in so far as, the said respondent has taken contradictory stand, that the petitioner could not succeed on merit as an unreserved general category candidate and also that her result is withheld for want of requisite documents.

So far as the writ petitioner is concerned, it is however not denied that at the material point of time, the writ petitioner could not produce sufficient adequate document in support of her exempted category status.

Mr. Ghosh is appearing for the petitioner and he however, emphasized that since the writ petitioner has

secured marks much more than the last qualified unreserved exempted category candidate, her case may be considered for appointment. He informs the Court that, in spite of fulfilling the criteria, requisite certificate has not been issued and illegally withheld, by the concerned department.

As per the existing norms, the writ petitioner has to produce necessary and adequate document, in support of his/her reserved status. It is an essential credential of the person to be produced before the authority, at the time of recruitment. Admittedly, the writ petitioner had entered into the process, claiming herself to be an unreserved candidate. In that category she could not qualify, on merit. Thereafter, on the basis of some stipulated assignments being successfully discharged by her (as claimed), she seeks that her candidature may be considered in exempted category. However, till date, she has not been able to produce adequate certificate to that effect, before the authority.

It is her allegation that such certificate of her has been withheld by the concerned department and she seeks that the authority may consider her case, in the exempted category, on the basis that she has successfully discharged the stipulated assignments.

However, as per the settled norms, the said respondent authority, cannot act in this regard, without

the adequate certificate being produced by the respective candidate, in this case, the writ petitioner.

Considering the records and the submissions on behalf of the writ petitioner as well as Council, this Court is inclined to disposed of this writ petition with the direction as herein below:-

- i) The writ petitioner shall submit a comprehensive representation annexing photocopy of all the relevant documents, particularly in support of her exempted category status, before the respondent no. 7/Council.
- ii) The Council shall consider the same and dispose of her prayer after hearing, the writ petitioner and any other person, as it think fit and proper.
- iii) In case, the writ petitioner is able to submit before the Council, adequate and sufficient documents in terms of the prevalent rules and regulations, to support her claim of belonging to EC category general candidate, her name shall be enlisted in the panel of successful candidates pertaining to general EC category.
- iv) The entire exercise as above, shall be concluded within a period of four weeks from

the date of submission of an application by  
the writ petitioner before the Council.

The writ petition being WPA No. 7355 of 2022 is  
thus, disposed of.

Urgent Photostat certified copy of this order, if  
applied for, be given to the parties upon compliance of all  
necessary formalities.

**(Rai Chattopadhyay, J.)**