

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-25584-2022 (O&M)
Date of decision: 22.08.2024

Renu

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Govind Mor, Advocate for
Mr. Jasbir Mor, Advocate for the petitioner.
Mr. Dushyant Saharan, AAG, Haryana.

AMAN CHAUDHARY, J.

1. The prayer in the present writ petition is for quashing the order dated 25.08.2022, rejecting the candidature of the petitioner under the EWS category for the post of Staff Nurse against Category Nos. 10 and 19 of Advertisement No. 15/2019 dated 07.09.2019.
2. The factual matrix emerging from the averments is that the petitioner admittedly secured the cut off marks of 50 for EWS category. However, has been non-suited on the ground that the EWS certificate dated 04.10.2019 uploaded by her alongwith the application, which though was issued by Government of Haryana, for the relevant year 2019-2020, but was for use of jobs/ admissions under Government of India, for which the gross annual income of the family was required to be below Rs.8 lakh, besides non-possessing agricultural and residential flats/ plots.
3. Concededly, the petitioner produced the required EWS certificate at the time of scrutiny on 23.11.2021, which depicted the income of the family to be less than Rs. 6 lakh but it was dated 10.11.2021. On a writ petition filed by her, being CWP-11533-2022, the same was disposed of vide order dated

26.05.2022, being squarely covered by the judgment in the case of **Ajay Bamel vs. State of Haryana and others**¹, and respondents were directed to decide her claim keeping in view the said judgment and a direction was also given to the concerned Tehsildar to verify the income of the petitioner and if found genuine, the benefit thereof be given to her. The relevant portion of the said judgment reads thus:

“ 2. Haryana Staff Selection Commission advertised 1,584 posts of Staff Nurse for the Health Department, Haryana and the petitioner applied under EWS category and duly uploaded the EWS certificate with the application form. Later on, petitioner came to know that the EWS certificate was not according to the Govt. Instructions because in the said certificate the income had been shown as Rs.8 lakh whereas the income should be less than Rs.6 lakh as per the Govt. Instruction. Therefore, the petitioner approached the Tehsildar to issue the EWS Certificate as per the Govt. Instructions and the same was issued. However, at the time of scrutiny of documents, she was informed by the respondents that EWS certificate of the petitioner was not in prescribed format and further that second EWS certificate was issued after the closing date, therefore, the same could not be considered.

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6. Without commenting on the merits of the case, the instant writ petition is disposed of with a direction that in case representation is moved by the petitioner within 2 weeks, the same shall be decided by respondents by passing an administrative order, in accordance with law, within a period of 30 days thereafter, keeping in mind the judgment passed by this Court dated 09.05.2022 (Annexure P-18). Meanwhile, concerned Tehsildar is directed to verify income of the petitioner and if found genuine, the benefit thereof be given to her.”

4. In compliance to the abovesaid, the Naib Tehsildar, Jind, verified the income of the entire family of the petitioner from all sources and found it to be Rs.75,000 annually and sent the same to the Secretary/ Chairman of the Haryana Staff Selection Commission vide Memo no. 442 dated 05.08.2022, Annexure P-13. The said report reads thus:

“In above mentioned CWP No.11533 of 2022 (O&M) I was directed by the Hon’ble to verify the income of the

petitioner Renu. The copy of order dated 26.05.2022 sent by Assistant Registrar, Writs Punjab and Haryana High court, Chandigarh was received by me on 16.06.2022 and in compliance thereof the undersigned had verified the income of the petitioner Renu and as per my verification. The income of entire family members of petitioner Renu is less than Rs. 6,00,000/- (Rs. Six Lacs) which income as per guideline of Haryana state comes under EWS. The report has been made by me after verification done by Sarpanch Sheela Devi, Halka Patwari Mujudpur and Tehsildar Hansi & report is also prepared after verification done by me in matrimonial village Ghimana District Jind where Sandeep Nambardar, Ami Lal Nambardar, Mamta Sarpanch and Halka Patwari Ghimana verified the income of the petitioner found having annual family income from all sources Rs. 75,000/- annual (Seventy Five Thousands only) as verified by local committee Income Certificate No. INC/2022/697 has been issued on dated income the verification on EWS of No. EWS/2022/613 dated 27.7.2022 has been issued by Naib Tehsildar Jind which is Annexure - II and same are attached herewith.”

5. The claim of the petitioner has yet again been rejected on the ground that the EWS certificate submitted during scrutiny to be dated 10.11.2021, after the cut off date, i.e. 09.10.2019. Neither was the aforesaid report taken into consideration, nor the judgment in the case of **Ajay Bamel** (supra), wherein also the petitioner had uploaded the EWS certificate regarding job under Government of India, but the premise to consider the claim was that the verification for issuance of the said certificate and the one to be issued for jobs in State of Haryana was the same verification report of the Tehsildar of the area. The factum of the previous certificate uploaded by the petitioner though for jobs under Government of India, but issued prior to the closing date i.e. on 04.10.2019, P-2, based on the same verification report and the submission of the subsequent as required was not even referenced.

6. The Commission had filed LPA-873-2022 in the case of **Ajay Bamel** (supra), wherein the operation thereof was stayed on 11.10.2022, which was however subsequently vacated vide order dated 14.11.2023, against which the SLP (Civil) No(s).11669/2024 filed was dismissed on

05.04.2024.

7. There is no denying the fact that the Commission was aware, before the last date of application form, of the petitioner falling in the EWS category, as a certificate in that regard was uploaded *albeit* regarding appointment under Government of India and the one produced at the time of scrutiny further clarified the income to be even less than Rs. 6 lakh and since both the certificates stemmed out of the same verification report by the Tehsildar concerned, were valid, only difference being that as per the one uploaded, the income was stated to be less than Rs. 8 lakh, however, in the subsequent one for State of Haryana, less than Rs. 6 lakh, which on direction of this Court, had been even re-verified and annual income of the family from all sources was specifically recorded by the Tehsildar to be only Rs. 75,000/- . Hon'ble the Supreme Court in **Dolly Chhanda vs. Chairman, JEE²**, observed that, "...Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature."

8. This Court in yet another matter, being titled as **Nisha vs. Haryana Staff Selection Commission³**, had by coming to a conclusion of the subsequent certificate submitted after the cut-off date for granting benefit of 5 marks under Socio-Economic Criteria to be clarificatory, allowed the petition and directed consideration of the petitioner therein for appointment to the post

² (2005) 9 SCC 779

³ CWP-11894-2021, decided on 30.07.2021

9. As a fall out of the afore discussion, subject to the petitioner falling in the merit, she be considered for appointment under EWS category, which if not vacant, a supernumerary post be created. The same shall be done within a period of two months. However, it is made clear that she shall be entitled to only notional benefits.

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No