



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Reserved on: 14.02.2024*
Judgment Pronounced on: 29.02.2024

+ W.P.(C) 10983/2023, CM APPL. 42553/2023 & CM APPL.65332/2023

CHANCHALI GOWRINAIDU **Petitioner**

Through: Mr. Abhinav Sharma, Mr. Lakshmi Kant Srivastava, Mr. Pooran Chand Roy, Ms. Deeksha Prakash and Ms. Parvi Khurana, Advs

Versus

INDIAN COAST GUARD THROUGH ITS DIRECTOR GENERAL & ORS. **Respondents**

Through: Mr. Siddharth Khatana, SPC with Ms. Vidhi Gupta, Advocate for UOI with Mr. Rattan Negi, DC (Law)

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

SAURABH BANERJEE, J.

1. As per facts, the respondents issued an advertisement dated 14.09.2022 for Batch 01/2023¹ recruitment to the post of Navik (GD) and Navik (Domestic Branch) in the Indian Coast Guard² involving a Selection Procedure consisting of Stage-I, Stage-II, Stage-III and lastly

¹ Herein after referred to as “*concerned advertisement*”

² Herein after referred to as “*ICG*”



Stage-IV. Clearing of the Stages-I, II, III and IV and satisfactory performance in training was compulsory for recruitment in ICG.

2. The petitioner applied for the post of Navik (GD) in the category of Other Backward Class (Non-Creamy Layer)³ through online application and after clearing Stage-I passed the physical fitness test, medical examination and document verification including category certificates dated 21.04.2021, 03.08.2022 and 26.12.2022 at the time of Stage-II.

3. However, the respondents rejected the candidature of the petitioner as he was not a *bona-fide* candidate and his application was having false information as it did not match with information as per documents uploaded in the application and was in contravention of date of issue of OBC certificate after the closing date of application i.e., 24.09.2022. In view thereof, the petitioner made his first representation dated 20.05.2023 to the Director General, ICG Headquarters, New Delhi requesting for non-cancellation of his candidature.

4. Thereafter, vide an RTI application, the petitioner came to know the cut-off marks for the 'General Category' and the 'OBC Category' for Batch 01/2023 which were 84 and 82 respectively and that he had secured 88 marks. Armed therewith, the petitioner made yet another representation to the same Director General, ICG Headquarters. Receiving no response to either of them, the petitioner filed the present writ petition seeking a direction to set aside the action of the respondents as communicated vide information dated 15.05.2023 whereby the candidature of the petitioner

³ Herein after referred to as "*OBC*"



was rejected and also to consider his candidature in General Category in Batch 02/2023.

5. Learned counsel for the petitioner submitted that the candidature of the petitioner has been erroneously rejected merely on the ground that the stipulated documents were supplied after the cut-off date due to a fault of a person working at Cyber Café at his native place, since he is not very well versed with computer technology which cannot be attributable to him. He further submitted that the same was a result of an inadvertence/ delay on the part of the petitioner and to this effect which is condonable. For this, he placed reliance upon ***Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board and Ors.*** (2016) 4 SCC 754. He further submitted that the petitioner has scored more marks than the cut off marks of the 'General Category' as well as the 'OBC Category' and has also cleared the medical examination and has not claimed any age relaxation or fee waiver. He, thus, submitted that the respondents should have automatically considered him as a general merit candidate which, in turn, would nullify the respondent's current grounds for rejection of the petitioner's candidature and, thus make him eligible for induction in Batch 01/2023.

6. *Per contra*, learned senior panel counsel for the respondents submitted that the petitioner failed to submit the required documents on time as also there was a mismatch in the information provided in the application form pertaining to the Category Certificate by him and the subsequent Category Certificate dated 26.12.2022 was only uploaded at the time of Stage-II. He lastly submitted that the training of Batch 01/2023 is already over and much time has elapsed since then. For this, he placed



reliance upon *Divya vs Union of India & Ors.* 2023INSC900. He, therefore submitted that there is no occasion for this Court to allow the present petition.

7. We have heard the learned counsel for the parties and perused the documents on record as well as the relevant judgments on hand qua the issue involved.

8. As born-out from the facts herein, the petitioner has neither challenged the mandatory pre-requisite of the concerned advertisement nor the conduct of the respondents. In any event, this Court finds that there is no *mala fide* or vice in either of the above and there is nothing adverse to the prejudice of the petitioner.

9. Further, though the petitioner secured 88 marks, which is more than the cut-off of 84 marks in the ‘General Category’ and 82 marks in the ‘OBC Category’ respectively, but his candidature was rejected by the respondents at the Stage-II as, *admittedly*, there was a mismatch qua the details of his Category Certificate filled in from that dated 26.12.2022 provided by him at the time of Stage-II and as the said Category Certificate dated 26.12.2022 was also, *admittedly*, obtained after the closing date of the online Application Form.

10. As filing of the Category Certificate was a perquisite mandate in the concerned advertisement, merely because the petitioner had cleared Stage-I and his candidature was rejected in Stage-II can hardly accrue to any benefit to him in view of what is clearly stipulated therein as below:-

“6(a) Stage-I Examination

Note: “... ..It is to be noted that no other document will be checked at Stage-I and its only a preliminary basic document verification. The detailed document will be carried out at



Stage-II and Stage-III as per the rules mentioned in the succeeding paragraphs.

xxx xxx

6(b) **Stage-II**

(ii) **Document Verification ('Provisionally Pass' or 'Fail')**

All the information provided in the online application has to match with all the original documents like grade X/XII/ Diploma mark sheet/Identity proof (Aadhar Card OR PAN Card OR Voter ID card OR Driving License OR Passport)/caste certificate/individual subject and aggregate marks/percentage. Any mismatch/inconsistency/error with the information provided in the application form with the documents in respect to "Name, Date of birth, Parent's name, subject wise marks/percentage/CGPA (as applicable), validity of documents, Caste certificate details etc." will lead to failure in document verification and the candidature will be cancelled.

The date of issue of all documents has to be the closing date of application or any date prior to closing date of application.

The validity of all the uploaded documents has to be at least up to 31 Aug 23. In case of any mismatch of information provided in the application form, document uploaded (at online application Stage-I and II) and original documents produced for physical verification at Stage-II then the candidature will be cancelled.

11. As further specified in the concerned advertisement, non-uploading/ wrong uploading/ interchange uploading would also tantamount to the cancellation of candidature, relevant extract whereof is as below:-

"7. How to Apply

Note:-

xxx xxx

xxx xxx

(aae) Non-upload/ wrong upload/ interchanged upload of the document in online application will lead to cancellation of candidature.

(aaf) Non-upload/wrong upload/interchanged upload of the additional documents prior Stage-II will also lead to cancellation of candidature during document verification at Stage-II, Stage-III and Stage-IV."

12. Needless to say, all aforesaid stipulations/ conditions contained in the concerned advertisement are *mandatory* and not directory. Thus, non-



submission of the *mandatory pre-requisite* Category Certificate at the appropriate stage for being considered for Batch 01/2023 within the stipulated time period by the petitioner meant there was non-compliance thereof by him meaning thereby that he *per se* automatically lost his candidature.

13. Since the application form was filled in and uploaded by the petitioner, no liability can be fastened onto anybody else, more so, when it was a *mandatory pre-requisite* contained in the concerned advertisement.

14. In any event, the petitioner admittedly never sought to make any change to correct his non-compliance. In any event, in terms of the submissions made by the learned senior panel counsel appearing for the respondents and the representatives present along with him in Court, after the last date the website of the respondents qua the concerned advertisement is in fact 'locked' and no changes therein are possible thereafter.

15. It is thus, that the petitioner cannot take any benefit of the Category Certificate of being an OBC candidate. Thus, this Court is unable to grant any relief qua that to the petitioner.

16. Furthermore, since the petitioner opted for a particular 'OBC Category' he cannot be allowed to switch over/ migrate to any other Category, be it the 'General Category' and that too in the next Batch 02/2023. The candidature of the petitioner for Batch 01/2023 is valid for the said Batch only as he cannot claim admission to the next Batch 02/2023 and he is required to undergo procedure for selection anew as per the clear stipulation in the concerned advertisement as below:-

"13. General Instructions (To be followed by candidate failing



which candidature will be cancelled)

xxx xxx

xxx xxx

xxx xxx

(d) The candidate's selection pertaining to a particular batch is valid for that batch only. Qualified candidates whose names do not appear in the final select list cannot claim admission for the next batch. These candidates will have to undergo the selection procedure afresh provided that they meet the eligibility criteria for the fresh batch."

17. Accordingly, in view of the aforesaid clear stipulation in the concerned advertisement, once the petitioner has himself opted for 'OBC Category' for candidature in Batch 01/2023, he cannot be allowed to be considered for the 'General Category' for Batch 02/2023. There is a clear bar from doing so, more particularly, under the mandatory prerequisites in the concerned advertisement. The petitioner is, thus, estopped from taking a contrary stand. Even otherwise, having lost his candidature under the OBC Category because of his non-supply of pre-requisite Category Certificate, there is no possibility of the petitioner claiming switch over/ migration. The petitioner has already missed the bus and cannot now be given a new/ fresh chance once again and that too under a different Category not even applied for the next Batch for which he has not participated in the Selection Procedure at all.

18. Therefore, for all practical purposes this Court finds that the petitioner never met the basic eligible criterion mandatorily prescribed in the advertisement concerned.

19. Thus, merely because the petitioner has secured more marks than the cut off marks for the 'General Category' and/ or the 'OBC Category' respectively for Batch 01/2023, is itself not a ground for considering his



candidature, *admittedly*, when he has indeed failed to comply with the *mandatory pre-requisites* of the concerned advertisement.

20. Hence, for the aforesaid discussions and the reasonings therewith, it would be improper to allow the candidature of the petitioner in Batch 02/2023 and that too in the 'General Category'.

21. Also, this Court is informed by the learned senior panel counsel appearing for the respondents and the representatives present along with him, that much time has since elapsed, pertinently, as the training for the said Batch 01/2023 is long over. Consequently, this Court cannot be privy to granting a relief which would have an overall negative impact as it would unsettle, not only the existing list of Batch 01/2023, but also that of the existing list of the next Batch 02/2023 and the same would be against the Public Policy.

22. Therefore, for the factual matrix involved, especially the mandatory stipulations specified and contained in the concerned advertisement coupled with the settled position of law, this Court is not to tinker with the recruitment process devised and laid out by the specialised technical committee of experts, this Court does not see any reason for interfering with them and granting the reliefs sought in favour of the petitioner.

23. Accordingly, the present writ petition along with the applications is dismissed, leaving the parties to bear their own costs.

SAURABH BANERJEE, J.

V. KAMESWAR RAO, J.

FEBRUARY 29, 2024/So