

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9976 of 2021

Sanju Kumari D/o Kameshwar Singh Wife of Pradeep Singh, Resident of
village- Amadhi, P.S.- Bhabua, District- Kaimur (Bhabua)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Cum Chief Executive Officer, State Health Society, Bihar, Patna
2. The Executive Director, State Health Society, Bihar, Patna
3. The Additional Executive Director, State Health Society, Bihar, Patna
4. The Regional Additional Director, Health Services, State Health Society, Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. P.N. Shahi, Sr. Advocate
Mr. Ramchandra Singh, Advocate
For the State Health Society : Mr. Kishore Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 03-12-2025

Heard Mr. P.N. Shahi, learned Senior counsel assisted by Mr. Ramchandra Singh, learned counsel for the petitioner and Mr. Kishore Kumar Sinha, learned counsel for the respondent State Health Society.

2. This writ application has been filed by the petitioner praying for quashing the result for selection of Auxiliary Nurse Midwifery (ANM) under the National Urban Health Mission (NUHM) contained in order no.7064 dated 5.1.2021 issued under the signature of the Executive Director, State Health Society, Bihar, Patna.

3. The respondent State Health Society came out



with an Advertisement no.12 of 2019 (Anneuxure-1) for filling up the vacant posts of Lab Technician (NUHM) as also the ANM (NUHM). The petitioner having the requisite qualification of I.A. and ANM diploma, made an application under the OBC (Other Backward Class) category. She qualified in the written test and on being called participated in the counselling on 12.11.2020. The petitioner was surprised not to find her name in the list of finally selected ANMs.

4. It is submitted by learned Senior counsel appearing for the petitioner that the petitioner having secured 76.535 marks in the Backward Class (BC) category, which was more than cut-off marks of the category ie 72.70, she should have been selected as an ANM. It was further submitted that the petitioner submitted the required Non-Creamy Layer (NCL) certificate before the State Health Society, however the authority without considering the same treated the petitioner to be an applicant under the Unreserved category and submitted the final selection list, not including the petitioner in the list of the selected candidates.

5. Reliance is placed by learned Senior counsel on the judgment of the Supreme Court in the case of **Ram**



Kumar Gijroya vs. Delhi Subordinate Services Selection Board & Anr.; (2016) 4 SCC 754 to submit that rendering ineligible a candidate who has otherwise been selected, only on the ground of non-submission of the certificate of his belonging to the OBC category, would amount to denial of equality of opportunity contemplated under Articles 14 and 16 of the Constitution. It is further submitted in reference to the letter/representation written by the petitioner and received by the respondent State Health Society on 6.5.2022 that the required NCL certificate was submitted/ handed over and as such treating the petitioner to be in the category of Backward Class, the petitioner be selected for appointment as an ANM.

6. The application is opposed by Mr. K.K Sinha, learned counsel appearing for the State Health Society. It is submitted by learned counsel that though the petitioner applied against the Advertisement no.12 of 2019 for appointment as an ANM in the category of an OBC candidate, he was not appointed for having violated the terms of the advertisement. It is submitted that as per Clause 15 (9) of the Advertisement, at the time of document verification/counselling, the candidate was required to produce all the relevant certificates in original including the



caste certificate issued by the Circle Officer as also the Non-Creamy Layer (NCL) certificate. The petitioner not having produced the same was treated in the Unreserved category and as the petitioner had secured less marks compared to the cut-off marks of 77.67 in the Unreserved category, the petitioner was not selected. It is further submitted that the judgment cited by learned Senior counsel for the petitioner is distinguishable on the facts of the case and is of no assistance to the petitioner. Referring to the representation/petition of the petitioner received in the office of the State Health Society on 6.5.2022 (Annexure-P/9), learned counsel submits that even on perusal of the same it would be evident that the petitioner in the said application mentions about handing over the OBC certificate and not the NCL certificate. For these reasons, there is no merit in the writ application and the same is fit to be dismissed.

7. Heard learned Senior counsel appearing for the petitioner, learned counsel for the State Health Society and perused the material on record.

8. The relevant facts in brief are that on the respondent State Health Society coming out with Advertisement no.12 of 2019 for appointment on 500 posts



of ANM (NUHM), the petitioner having the requisite qualification of diploma in ANM training course from a recognized ANM Training Institute and being registered with the Bihar Nurses Registration Council filed her application. She qualified in the written test on 14.3.2020 and appeared in the counselling held on 12.11.2020.

9. The petitioner's name did not figure in the final list of selected candidates for the post of ANM taken out by the respondents contained in order no.7064 dated 5.1.2021 under the signature of the Executive Director, State Health Society, Bihar.

10. It may be observed here that Clause 15 (9) of the advertisement clearly provided that at the time of document verification/counselling, the candidates were required to produce their original certificates issued by the Circle Officer with respect to the special category/caste/class that they belonged to and they also had to produce the Non-Creamy Layer (NCL) certificate. It is not in dispute that the petitioner did not produce the NCL certificate which is accepted by the petitioner herself in paragraph no.9 of the reply filed on behalf of the petitioner to the counter affidavit.

11. While the final list of the selected candidates of



ANMs was taken out on 5.1.2021, the petitioner claims to have handed over the NCL certificate to one 'Saumya Ma'am' on 6.5.2022 vide statement made in paragraph no.4 read with Annexure-P/9 to the supplementary affidavit. Even accepting the said statement neither any receipt has been brought on record and only an oral statement to the effect that the NCL certificate had been handed over to some person after nearly 1 year 6 months after the counselling was held and 1 year 4 months after the result of the selected candidates was declared, has been made.

12. So far as the judgment in the case of **Ram Kumar Gijroya** (*supra*) is concerned, in the opinion of the Court the same is of no assistance to the petitioner. In the said case, the petitioner/candidate therein was not selected on the post of Staff Nurse in the Department of Health and Family Welfare, Government of NCT of Delhi as he had failed to submit the OBC certificate issued by the appropriate authority along with the application form before the last date of submission of application form. The learned Single Judge hearing the writ petition placing reliance on the judgment in the case of Pushpa vs. Government, NCT of Delhi and Others; 2009 SCC OnLine Del 281 directed the respondent



to re-consider the application of the candidate. The learned Single Judge held the petitioner was entitled to submit the OBC certificate before the provisional selection list was published to claim benefit of the reservation of OBC category. The Division Bench of the High Court having reversed the judgment of the learned Single Judge, the Hon'ble Supreme Court set aside the order of the Division Bench holding that the learned Single Judge had rightly considered the decisions of the Hon'ble Supreme Court in the case of Pushpa vs. Government, NCT of Delhi (*supra*)

13. So far as the facts of the instant case are concerned, while Clause 15 (9) of the Advertisement clearly provided that the original certificates including the NCL certificate had to be produced by the candidate on the date of counselling which was 12.11.2020, the NCL certificate of the petitioner which was issued on 23.11.2020 was not produced by the petitioner. Even as per the petitioner's case, it is after the respondents coming out with the final selection list of appointment on 5.1.2021 that the petitioner in her supplementary affidavit, by way of an enclosed representation dated 6.5.2022 states that he had handed over the certificate to one 'Saumya Ma'am'. While taking note of the fact that



the writ application was filed on 22.5.2021 and no statement of submission of the certificate was made at any point of time, even the said petition/representation received on 6.5.2022 does not mention the date of handing over of the certificate.

14. Taking into consideration the facts and circumstances of the case, in absence of the requisite NCL certificate, the petitioner was rightly considered under the Unreserved category and not having secured the cut-off marks of 77.67 for the Unreserved category, her name did not figure in the list of selected candidates.

15. The Court finds no error in the order containing the list of selected candidates issued by the State Health Society nor any error in the respondents not selecting the petitioner as an ANM (NUHM).

16. The application is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.12.2025
Transmission Date	

