

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11093 of 2024

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Bedanand Sharma, S/o- Shiv Narayan Mandal, R/o- Farka, P.O.- Farka, P.S.-
Sabour, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Director Higher Education, Government of Bihar, Patna.
3. The Chairman Bihar State University Commission, 8th Floor, Bihar School Examination, Board Academic Building, Budh Marg, Patna.
4. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board Academic Building, Budh Marg, Patna.
5. The Examination Controller, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board Academic Building, Budh Marg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajive Ranjan Singh, Adv.
For the State	:	Mr. Rakesh Ranjan, AC to GP-22
For the BSUSC	:	Mr. Tuhin Shankar, Adv.
		Mr. Gopal Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 25-09-2025

Heard the parties.

2. The petitioner, an aspirant for the post of Assistant Professor under the category of EBC/OBC in connection with Advertisement No.AP-MATH-23/20-21 is aggrieved with the action of the respondents, especially the Bihar State University Service Commission (for brevity 'the Commission') in not



considering his candidature under the category of EBC/OBC and treated him to be Unreserved Category candidate.

3. Learned Advocate for the petitioner submitted that in terms with the captioned advertisement, the petitioner had submitted his application by specifically clarifying that he belongs to EBC/OBC (NCL) and has also submitted all the documents. The scrutiny was done by the Commission and no objection was raised; later on an important notice was issued on 30.04.2024. It has been informed that since the petitioner could not submit the Non-Creamy Layer Certificate and thus he has been treated as a candidate under the Unreserved Category. The said notice was also invited objection from the candidates that in case they have any claim/objection, they may file their objection till 15.05.2024. In pursuant to the aforesaid important notice, the petitioner immediately submitted his Non-Creamy Layer Certificate dated 26.03.2022 and further Certificate dated 06.05.2024. Despite the certificates duly furnished by the petitioner, his name did not find in the result. He has also filed a representation before the Secretary of the Commission; however, till date no action has been taken. Hence, the present application.

4. On the other hand, Mr. Tuhin Shankar, learned



Advocate for the Commission has taken this Court through the advertisement and submitted that the facts are admitted; the cut-off date for filing application through online along with all the necessary documents/certificates was fixed on 02.11.2020, which was later on extended through a Corrigendum to 24.11.2020 and the hard copy of the certificates was directed to be filed before 30.12.2020. It is the admitted position that the petitioner has enclosed two Non-Creamy Layer Certificates, one dated 26.03.2022 and another dated 06.05.2024, issued much after the cut-off date and thus the request of the petitioner to treat him under EBC/OBC category is manifestly unsustainable. So far the contention of the petitioner with respect to the important notice dated 30.04.2024 is concerned, the same also appears to be misconceived for the simple reason that at no point of time, the petitioner has filed Non-Creamy Layer Certificate before the cut-off date and, as such, his claim for any correction in the category could not be entertained.

5. It is urged that identical issue has come up for consideration before the co-ordinate Bench of this Court in the case of **Neetu Kumar v. The Bihar State University Service Commission & Ors. [C.W.J.C. No.10202 of 2024]** and further in the case of **Prabhu Kumar v. The State of Bihar & Ors.**



[C.W.J.C. No.10853 of 2024], wherein the learned Court taking note of the relevant prescription of the advertisement did not interfere in the matter and rejected the claim of the writ-petitioners, who had submitted their Non-Creamy Layer Certificate after the cut-off date.

6. Reliance has also been placed on a decision of the learned Division Bench of this Court in **Dr. Shishu Pal Singh @ Shishu Pal Singh v. The State of Bihar & Ors. [L.P.A. No.1003 of 2024]**, wherein the learned Division Bench underscored the primacy to the cut-off date mentioned in the advertisement; if the candidate(s) failed to produce any certificate before the cut-off date, the same could not be taken into consideration.

7. Having given careful consideration to the submissions advanced by the learned Advocates for the respective parties, it would be worth benefiting to take note of the relevant prescriptions of the advertisement. Clause 5 of the advertisement which deals with important points to be noted regarding essential educational qualifications, clearly stipulates that all the certificates and degrees regarding educational qualification must have been issued before 02.11.2020 i.e. the closing date for filling the online application, otherwise the



candidate's candidature will be rejected in terms with Clause 5.1 thereof. The reservation policy, as has been stipulated in Clause 8 of the advertisement clearly prescribes that the candidate of Backward Class and Extremely Backward Class will be required to submit the following certificates:-(a) Caste Certificate, (b) Domicile Certificate and (c) Non-Creamy Layer Certificate. Clause 8.3.3 further prescribes that in case of BC and EBC candidates the Caste Certificate, Domicile Certificate and Non-Creamy Layer Certificate and in case of SC and ST candidates the Caste Certificate and Domicile Certificate signed by the Circle Officer of the circle of his permanent resident will be valid. Further, Clause 11.1 of the Advertisement prescribes that the applicants were required to submit requisite documents specified therein, including Non-Creamy Layer Certificate, who were claiming reservation under Extremely Backward Class/Other Backward Class category within the specified date and time. The last date for submission of the application along with documents prescribed was 02.11.2020 which was extended upto 10.12.2020 and further till 30.12.2020 by 5:00 PM.

8. Admittedly, the case in hand, the petitioner did not submit Non-Creamy Layer Certificate along with his application within the stipulated time for submission as



prescribed in the advertisement and in absence thereof, the petitioner has been treated to be a candidate under General Category in terms of the advertisement. The submission of the petitioner that in the light of the notice dated 30.04.2024 and prior thereto, the petitioner has submitted his Non-Creamy Layer Certificate would not come to his rescue as the terms of the advertisement specifically prohibits receipt of the Non-Creamy Layer Certificate after the cut off date.

9. Counter affidavit filed on behalf of the respondent Commission further refuted the contention of the petitioner that the Commission had given any opportunity to similarly situated candidates to submit their application after the cut off date, as it was impermissible and no concession to any similarly situated candidates was accorded to submit their Non-Creamy Layer Certificate after the cut off date.

10. The issue regarding primacy to the terms and conditions of the advertisement had come up for consideration in the case ***Bedanga Talukdar vs Saifudaullah Khan & Ors [(2011) 12 SCC 85]***, where the Hon'ble Supreme Court held as follows:

“ 29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in



conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.”

11. Further, the Full Bench of this Court in the case of ***Braj Kishore Prasad vs. State of Bihar (F.B.)*** [1998 (3) PLJR 34] underscored the relevance of the date prescribed in the advertisement and strict compliance of the terms and conditions thereof. It would be worth benefiting to quote para-26 thereof which reads as under:



“26. Having regard to all these considerations, I hold that:

(a) Where the advertisement specifies the last date for filing of supporting or other documents, that date must be given effect to, and any document received after such date shall be rejected by the selecting authority.

(b) In appropriate cases where the selecting authority is of the view that the time for furnishing of documents should be extended, it may grant such extension by issuing a public notice to this effect so that all candidates may get the benefit of such extension. In the absence of any such extension granted by the selecting authority, the date/dates mentioned in the advertisement should be treated to be the last date for filing of documents, and no document shall be accepted thereafter.

(c) No application/ document shall be entertained by the Commission if the same is filed after the last date specified in the advertisement, or the extended date notified by the commission, even if the same is filed before the finalisation of the select list.

(d) In appropriate cases where this Court is satisfied that a case of extreme hardship or injustice has resulted on account of factors beyond the control of the concerned candidate, this Court in exercise of its writ jurisdiction may grant relief in deserving cases. But in doing so, the Court must be satisfied that the candidate concerned has acted diligently, and is not guilty of delay or laches in taking necessary steps for procuring the requisite certificates, etc. However, no relief shall be granted where the requisite certificate is produced for the



first time after the process of selection is complete and the selecting authority has made its recommendation.”

12. Identical issue has come up for consideration before a Bench of this Court in ***Neetu Kumar and Prabhu Kumar*** (supra) wherein the Court having taken note of the fact that the applicants failed to submit their certificate before the cut off date of 30.12.2020 did not interfere in the writ petition and dismissed the same.

13. The reliance placed by the learned Advocate for the Commission on a decision of the learned Division Bench of this Court in ***Dr. Shishu Pal Singh***(supra) also emphasized the relevance and importance of the cut off date mentioned in the advertisement. Placing reliance upon the decision rendered in the cases of ***Bedanga Talukdar*** and ***Braj Kishore Prasad*** (supra), the learned Division Bench affirmed the order of the learned Single Judge, whereby the writ petition filed by the appellant was dismissed when he was unable to submit the required experience certificate in the format prescribed by the Commission before the cut off date prescribed in the advertisement.

14. In view of the discussions and the legal position settled by the Courts, noted hereinabove, this Court does not



find any merit in the writ petition and, accordingly, the same stands dismissed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.10.2025
Transmission Date	

