

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13309 of 2018

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Jeetendra Kumar S/o Late Ganga Bishun Sah R/o Village Babhangama, P.O. Banghara, P.S. - Ghataho, District - Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Bihar Public Service Commission through its Secretary, Jawaharlal Nehru Marg, Bailey Road, Patn
3. The Chairman, Bihar Public Service Commission, Jawaharlal Nehru Marg, Bailey Road, Patna - 800001.
4. The Secretary, Bihar Public Service Commission, Jawahar Lal Nehru Marg, Bailey Road, Patna-800001.
5. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Jawaharlal Nehru M

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Lakshmindra Kumar Yadav
For the Respondent/s : Mr.Kumar Alok -Sc7

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 23-09-2025 1. Heard the parties.

2. The petitioner has filed the present writ application for a direction to the respondents authorities to recommend his name for appointment on the post of Lecturer (Physics) in Government Polytechnics / Government Women's Polytechnics under the Department of Science & Technology, Bihar pursuant to Advertisement No. 43 / 2014 issued by the Bihar Public Service Commission (in short "B.P.S.C.").

3. The petitioner belongs to 'Teli' caste, which at the time of issuance of advertisement dated 23.09.2014 was advertised



classified under the Other Backward Class (OBC) category. During the pendency of the selection process, the State Government vide Memo No. 6137 dated 22.04.2015 notified the 'Teli' caste as Extremely Backward Class (E.B.C.). Pursuant to this the petitioner obtained a fresh caste certificate dated 01.06.2017 in which his caste was shown under E.B.C. category.

4. It is the case of the petitioner that pursuant to the advertisement the petitioner appeared in the written examination held on 31.01.2016 and thereafter appeared in the interview on 28.06.2017 with all requisite certificates including his fresh E.B.C. certificate. The final result was published on 22.06.2018 wherein the petitioner secured 45.24 marks. The cut -off marks for the E.B.C. category stood at 40.20 however his candidature was treated under the O.B.C. category on the basis of his earlier caste certificate of which cut -off mark was 46.47, consequently, his name was not recommended for appointment.

5. Learned counsel for the petitioner submits that once petitioner's caste has been re-classified under E.B.C. category during pendency of the recruitment process and since he has produced a valid E.B.C. certificate before the interview board it was incumbent upon the B.P.S.C. to consider his candidature under the E.B.C. category. Non- consideration of the same has



resulted in grave injustice to the petitioner.

6. On the other hand, learned counsel for the respondents argued that the recruitment process has to be conducted strictly in accordance with the terms of the advertisement and conditions prescribed therein. The category under which a candidate applied at the time of submission of his application form shall be treated as final. Any change in the category after the publication of the advertisement cannot apply in the appointment process which was initiated and started prior to change of category.

7. The petitioner has applied as an O.B.C. candidate as such his claim under E.B.C. category cannot be entertained at a later stage. The advertisement clearly prescribed the essential qualifications, caste category, age limit, wieghtage for work experience and selection procedure. The petitioner appeared in the written examination and interview and secured 45.24 marks which was below the cut -off 46.47 for his then reservation category (O.B.C.) and thus he was not selected. It is further submitted that 'Teli' caste was revised from B.C. to E.B.C. only on 22.04.2015 i.e. after the last date for submission of application (23.09.2014). As per the Government Notification No. 16144 dt: 28.11.2012 no change in reservation category is



permissible during an on-going selection process. The Commission acted strictly in accordance with the rules and regulations of the State Government. In view of these facts the writ petition is devoid of any merit and is liable to be dismissed.

8. Upon hearing learned counsel for the parties, it appears that selection process was started by publishing the advertisement in 2014 and the last date for submission of application was 23.09.2014. It is an established principle that selection process must be conducted in accordance with the advertisement published and conditions mentioned therein. Candidates are required to apply under appropriate category existing at that point of time. Any subsequent change in reservation category during the pendency of the recruitment process do not operate retrospectively. The Hon'ble Apex Court in the case of Hemani Malhotra versus High Court of Delhi reported in (2008) 7 SCC 11 has observed that the authority making rules regulating selection cannot be allowed to add an additional requirement / qualification or remove the same once the selection process has already commenced as that would be termed as changing the game in the mid-way and the entire selection process would vitiate.

9. In the present case, the petitioner's contention is based



on subsequent re-classification of the 'Teli' caste to E.B.C. The re-classification took place after the selection process had started. The selection process including written examination and interview was conducted based on the information and category declared by the candidates at the time of application. The petitioner's marks under the category in which he applied were below the cut-off for selection. The procedural rules do not permit post facto adjustment of category for the purpose of recommendation. Allowing a candidate to alter his category during the pendency of the selection would undermine the sanctity and predictability of the recruitment process and could create administrative chaos.

10. Considering the aforesaid discussions, I do not find any merit in the present writ application. Accordingly, the same is dismissed.

(Anil Kumar Sinha, J)

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