

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16991 of 2022

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1. Saheb Sahani Son of Dev Narayan Sahani Resident of Village- Rulahi Tola Majhar, P.S.- Motihari Mufassil, District- East Champaran.
 2. Shashi Kant Kumar, Son of Bhikham Sah Resident of Village- Chanduli, P.S.- Raxaul, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, General Administration Department, Main Secretariat, Patna.
2. District Magistrate, East Champaran at Motihari.
3. In-Charge Officer, District General Section, Collecorate of East Champaran at Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kishore Kumar Thakur, Advocate
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 24-11-2025

1. Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The petitioners have filed the instant application for the following reliefs :-

“i. For a directions to the respondents, particularly the respondent District Magistrate, East champaran to re-consider the case of petitioners for appointment to the post of Chaukidar under the quota of vacancies earmarked to be filled up from amongst the Extremely Backward candidates, considering the fact that even though the petitioners, in



compliance of the instruction issued to them by letter contained in Memo no 322 and 54 dated 05.07.2018, had submitted the required academic certificates and other necessary testimonials, including the latest "Creamy layer certificates", duly issued by the competent authority, the respondents have illegally refused to consider their cases for appointment to the post of chaukidar against the quota earmarked to be filled up from amongst the Extremely Backward community candidates, on a completely non-est and misconceived ground.

ii. The petitioners further pray that if necessary, the order contained in Memo no 2141 dated 11-09-2022, issued under the signature of respondent District Magistrate, East champaran, be set aside, whereby the provisional merit list dated 10-09-2022, published on the approval of District selection committee, East champaran, Mothihari, has been approved as final Merit list and thereby direction has been issued to issue appointment letters in the light of said merit list."

3. The case of the petitioners in brief is that pursuant to respondents having come out with an Advertisement no.1 of 2017 for appointment on the post of *Chaukidar*, both the petitioners who belong to the Extremely Backward Class (EBC) category applied. They produced all the relevant certificates.

4. It is further case of the petitioners that they



appeared for counseling and bicycle ride test on the scheduled date i.e. 28.7.2018 and 29.7.2018 along with their original certificates issued by the designated authority certifying that the petitioners do not belong to the creamy layer category within the EBC. The counseling was held on two different dates being 29.7.2018 and 28.7.2018 for petitioner nos.1 and 2 respectively.

5. It is submitted by learned counsel for the petitioners that inspite of having produced all the relevant certificates, the names of the petitioners did not find place in the merit list of the EBC category candidates. Objections were invited. On account of exclusion of their names, the petitioners filed their individual objections. The respondent authorities formed a Committee, which not having properly appreciated the objections filed by the petitioners, by order dated 6.10.2022 (Annexure-P-8) rejected the application/objection of both the petitioners. The consequential order was passed by the District Magistrate which has been challenged by the petitioners in the instant case.

6. Learned counsel for the petitioners further in support of his contentions has placed reliance on the judgment of the Hon'ble Supreme Court dated 22.9.2023 in the case of *Sweety Kumari vs. The State of Bihar & Ors.* (Civil Appeal no.6072 of 2023).



7. The application is opposed by learned counsel appearing for the respondents who submits that the reason for rejection of the applications of the petitioners is clear from the contents of Annexure-P-8, where the objections filed by the petitioners were dealt with. So far as the petitioner no.1 is concerned, he had not enclosed the creamy layer certificate along with his application and so far as the petitioner no.2 is concerned, the creamy layer certificate enclosed was one which had been issued subsequent to the last dated of application which was to be filed pursuant to Advertisement no.1 of 2017. It is thus submitted that the application in case of both the petitioners was rightly rejected. They have no case and the application is fit to be rejected.

8. Heard learned counsel for the parties and perused the material on record.

9. Bereft of unnecessary details, it may be observed here that pursuant to the petitioners having applied for appointment as *Chaukidar* on the respondents coming out with an Advertisement no.1 of 2017, the names of the petitioners did not figure in the merit list of the category of EBC which the petitioners claim to belong to.

10. It further transpires from the record that objections



to the merit list was invited by the respondents to which both the petitioners submitted their objections and which was considered by a Committee, the report of which has been brought on record as Annexure-P-8 to the writ application.

11. So far as the case of petitioner no.1 is concerned, the objection of the petitioner was to the effect that though he had enclosed the certificate with respect to his not belonging to the creamy layer along with his application, there had been interference in his application and his certificate which showed that he did not belong to the creamy layer had been destroyed. The Committee appointed by the respondents dealt with the same and in its report dated 6.10.2022 came to the conclusion that the certificate with respect to petitioner no.1 not belonging to the creamy layer had not been enclosed and as such his counseling had been carried out treating him to be in the category of Unreserved wherein, the marks of the last selected candidate was 83.6 against which the petitioner no.1 had obtained 81.6 marks. As such, he had not been selected.

12. It may be observed here itself that as to whether a certificate with respect to the petitioner no.1 not belonging to the creamy layer was enclosed with the original application or not, is a disputed question of fact which cannot be dealt with



and decided by a Court under its writ jurisdiction.

13. So far as petitioner no.2 is concerned, the objection of the petitioner no.2 was that inspite of belonging to the EBC category and having 82.71 percent marks, person having lesser marks in the said category was selected but the petitioner no.2 was left out.

14. The Committee dealing with the objection observed that the last date for filling an application against the advertisement was 20.11.2017, whereas the certificate enclosed by the petitioner no.2 of his not belonging to creamy layer was issued on 24.5.2018. As such, he was not considered under the EBC category but under the General/Unreserved category. In the case of petitioner no.2 also while the last candidate selected in the General category had obtained 83.6 marks, the petitioner no.2 having obtained 82.71 marks, was not selected.

15. So far as the judgment in the case of Sweety Kumari (*supra*) is concerned, in the opinion of the Court, the instant application is distinguishable on facts. In the case of Sweety Kumari (*supra*), the candidates had been directed to produce the original character certificate at the time of interview. In the said case though the original certificates were not produced, however true photocopies of the original



certificates were produced. So far as the instant case is concerned, while in the case of petitioner no.1, the certificate of him not belonging to the creamy layer was not enclosed with his application, so far as petitioner no.2 is concerned, the certificate produced by him was of a date subsequent to the last date for filling up the application. Thus even in the case of petitioner no.2, at the time of filling up of the application, the certificate had not been produced.

16. Having heard learned counsel for the parties and having considered the contents of the petition, the objections filed by the petitioners having been considered by the Committee of four persons, report dated 6.10.2022 of which has been brought on record as Annexure-P-8 to the counter affidavit, the Court finds no merit in the instant application.

17. The application is dismissed.

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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