

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17852-2024 (O&M)
Date of Decision: 05.02.2025

Naveen and others ...Petitioners

Versus

State of Haryana and others ...Respondents

With

Sr. No.	Case No.	Petitioner(s)	Respondent(s)
2.	CWP-16829-2024 (O&M)	Gurdeep and others	State of Haryana and others
3.	CWP-16527-2024	Virender	State of Haryana and another
4.	CWP-16978-2024	Mahesh Kumar	State of Haryana and others
5.	CWP-17190-2024	Narender and others	State of Haryana and others
6.	CWP-17500-2024	Sanju	State of Haryana and others
7.	CWP-17550-2024	Irfan Pathan	State of Haryana and others
8.	CWP-17575-2024	Manpreet and others	State of Haryana and others
9.	CWP-17581-2024	Harender Singh	State of Haryana and others
10.	CWP-17760-2024	Priyanka and another	State of Haryana and others
11.	CWP-17825-2024	Sahil Kumar and another	State of Haryana and others
12.	CWP-17840-2024	Aasif Mustafa	State of Haryana and others
13.	CWP-17867-2024	Kiran Kumari	State of Haryana and others
14.	CWP-18020-2024	Pooja	State of Haryana and others
15.	CWP-18084-2024	Hem Lata and another	State of Haryana and others
16.	CWP-18102-2024	Surender	State of Haryana and others
17.	CWP-18152-2024	Renu	State of Haryana and others
18.	CWP-18258-2024	Rekha	State of Haryana and others
19.	CWP-18405-2024	Sushila Devi and others	State of Haryana and others
20.	CWP-18704-2024	Nishu Yadav	State of Haryana and others
21.	CWP-18720-2024	Pardeep Kumar	State of Haryana and others

22.	CWP-18815-2024	Naveen Bharat Kashyap and others	State of Haryana and others
23.	CWP-18920-2024	Vinay Verma	State of Haryana and others
24.	CWP-18929-2024	Vijay Kumar and others	State of Haryana and others
25.	CWP-18968-2024	Ankit Kumar and others	State of Haryana and others
26.	CWP-18976-2024	Abhishek and others	State of Haryana and others
27.	CWP-19105-2024	Vikash and others	State of Haryana and others
28.	CWP-19145-2024	Bunti	State of Haryana and others
29.	CWP-19147-2024 (O&M)	Nisha and others	State of Haryana and others
30.	CWP-19151-2024	Gopal Chauhan and others	State of Haryana and others
31.	CWP-19225-2024	Manita	Haryana Staff Selection Commission
32.	CWP-19317-2024	Amit Kumar and others	State of Haryana and others
33.	CWP-19327-2024	Mandeep Kumar and others	State of Haryana and others
34.	CWP-19339-2024	Jyoti	State of Haryana and others
35.	CWP-19411-2024	Priyanka	State of Haryana and others
36.	CWP-19471-2024	Sunita and others	State of Haryana and others
37.	CWP-19490-2024	Khushboo	State of Haryana and others
38.	CWP-19574-2024	Pinki Devi	State of Haryana and others
39.	CWP-19692-2024	Anil Kumar and others	State of Haryana and others
40.	CWP-19706-2024	Shallu Devi and others	State of Haryana and others
41.	CWP-20038-2024	Mamta Rani and others	Haryana Staff Selection Commission
42.	CWP-20045-2024	Dinesh Dhiman	State of Haryana and others
43.	CWP-20143-2024	Dharmender	State of Haryana and others
44.	CWP-20154-2024	Yahudin	State of Haryana and others
45.	CWP-20214-2024	Vicky Kumar and others	State of Haryana and others
46.	CWP-21954-2024	Hemant Kumar	State of Haryana and others
47.	CWP-21959-2024	Tarif Ajeej and others	State of Haryana and others
48.	CWP-22216-2024	Ajay Kumar	State of Haryana and others

49.	CWP-22784-2024	Deepak Kumar	Haryana Staff Selection Commission and another
50.	CWP-23144-2024	Aditya	State of Haryana and others
51.	CWP-23154-2024	Vikram Singh	State of Haryana and others
52.	CWP-23185-2024	Faisal Khan and others	State of Haryana and others
53.	CWP-28676-2024	Rahul and others	State of Haryana and others
54.	CWP-29081-2024	Adesh	State of Haryana and others
55.	CWP-29135-2024	Ankit Yadav	State of Haryana and others
56.	CWP-30404-2024	Parveen and others	State of Haryana and others
57.	CWP-30607-2024	Sahil	State of Haryana and others
58.	CWP-31370-2024	Sanjay Kumar	State of Haryana and another
59.	CWP-31416-2024	Reema and others	State of Haryana and others
60.	CWP-31678-2024	Satya Dev and others	State of Haryana and others
61.	CWP-31182-2024	Rakesh Kumar	State of Haryana and others
62.	CWP-32257-2024	Saurabh and others	State of Haryana and others
63.	CWP-32760-2024	Arun Kumar	State of Haryana and others
64.	CWP-380-2025	Tannu	State of Haryana and another
65.	CWP-2102-2025	Amandeep	State of Haryana and others
66.	CWP-2450-2025	Vishal and others	State of Haryana and others
67.	CWP-18805-2024	Rinku and others	State of Haryana and others
68.	CWP-18808-2024	Mohammad Shahid and other	State of Haryana and others
69.	CWP-19076-2024	Anju Bala and another	State of Haryana and others
70.	CWP-19912-2024 (O&M)	Gurdeep and others	State of Haryana and others
71.	CWP-29559-2024	Shubham Kumar	State of Haryana and another
72.	CWP-20049-2024 (O&M)	Lalit Kumar and others	State of Haryana and others
73.	CWP-20586-2024	Lakshya and others	State of Haryana and others
74.	CWP-29676-2024	Kamal and others	State of Haryana and others
75.	CWP-28689-2024	Parvesh	State of Haryana and others
76.	CWP-31898-2024	Yougesh	State of Haryana and another
77.	CWP-34255-2024	Ankit and others	State of Haryana and others
78.	CWP-34831-2024	Shivam	State of Haryana and others

Present:- Mr. D.S. Patwalia, Senior Advocate with
Mr. A.S. Chadha, Advocate for the petitioner(s) in CWP-17852-2024, CWP-18405-2024, CWP-17190-2024, CWP-17825-2024, CWP-18815-2024, CWP-20214-2024 & CWP-19147-2024.

Mr. Sarthak Gupta, Advocate with
Mr. Girender Singh, Advocate for the petitioner(s) in CWP-17852-2024, CWP-19912-2024, CWP-19692-2024, CWP-19317-2024, CWP-18815-2024, CWP-18405-2024, CWP-17190-2024, CWP-16829-2024, CWP-23185-2024, CWP-23154-2024, CWP-23144-2024, CWP-28676-2024, CWP-18805-2024, CWP-29676-2024 & CWP-34255-2024.

Mr. Prashant Singh Chauhan, Advocate for the petitioners in CWP-2450-2025, CWP-19327-2024, CWP-19147-2024, CWP-20214-2024, CWP-17825-2024, CWP-18976-2024, CWP-19105-2024, CWP-19706-2024, CWP-20049-2024, CWP-20586-2024, CWP-18084-2024 & CWP-30404-2024.

Mr. Pardeep Chokker, Advocate with
Mr. Parvesh Malik, Advocate for the petitioner in CWP-34831-2024.

Mr. Abhijeet Singh Rawaley, Advocate for the petitioner
in CWP-19574-2024 & CWP-20154-2024.

Mr. Pardeep Sehrawat, Advocate and
Mr. Rajinder Singh, Advocate for the petitioners in CWP-17575-2024.

Mr. Bhupender Singh, Advocate for the petitioner in CWP-20045-2024.

Mr. Ankur Sidhar, Advocate for the petitioner.

Mr. R.S. Dhull, Advocate with
Mr. Navnit Sharma, Advocate and Mr. Sandeep Malik, Advocate for the
petitioner(s) in CWP-32257-2024, CWP-18808-2024, CWP-19339-2024,
CWP-20038-2024 CWP-21959-2024, CWP-31370-2024, CWP-31416-
2024.

Mr. Sourabh Sheoran, Advocate for the petitioners in CWP-21954-2024,
CWP-29135-2024 & CWP-29081-2024.

Mr. Arjun Singh, Advocate for the petitioners
in CWP-19411-2024 & CWP-20143-2024.

Mr. K.D.S. Hooda, Advocate and
Mr. Yashwir Hooda, Advocate for the petitioner
in CWP-380-2025 & CWP-18929-2024.

Mr. Gourav Phogat, Advocate for the petitioner in CWP-32760-2024.

Mr. Parmender Singh Bhukal, Advocate for the petitioner.

Ms. Harmanpreet Kaur, Advocate for the petitioner.

Mr. Mayank Yadav, Advocate for the petitioner
in CWP-19411-2024 & CWP-20143-2024.

Mr. Varun Parkash, Advocate for the petitioner in CWP-18720-2024.

Mr. P.R. Yadav, Advocate for the petitioner in CWP-28689-2024.

Mr. Ram Pal Verma, Advocate for the petitioner in CWP-17500-2024.

Mr. Virender Soni, Advocate for the petitioner in CWP-31182-2024.

Mr. Brijesh Kumar, Advocate and
Mr. Virender Singh, Advocate for the petitioner in CWP-29559-2024.

Mr. Vaibhav Sharma, Advocate and
Mr. Harit Narang, Advocate for the petitioner in CWP-18920-2024.

Mr. Bhanu Pratap Singh, Advocate for the petitioner in CWP-2102-2025.

Mr. Anshul Khurana, Advocate for the petitioner in CWP-22216-2024.

Mr. S.S. Duhan, Advocate (*through video conferencing*)
for the petitioner in CWP-22784-2024

Mr. Jagjeet Beniwal, Advocate for the petitioner
in CWP-30607-2024.

Mr. Karminder Singh, Advocate and
Mr. P.S. Walia, Advocate for the petitioner in CWP-31898-2024.

Mr. Sumit Sangwan, Advocate for the petitioner
in CWP-18258-2024.

Mr. Deepak Vashishth, Advocate with
Mr. Sunil Bhardwaj, Advocate for the petitioner in CWP-19225-2024.

Mr. Shokeen Singh Verma, Advocate for the petitioner in CWP-19151-2024, CWP-19471-2024, CWP-18968-2024, CWP-31678-2024 & CWP-17760-2024.

Ms. Shruti Jain Goyal, Senior Deputy Advocate General, Haryana and Ms. Dimple Jain, Deputy Advocate General, Haryana.

Ms. Rajni Gupta, Addl. Advocate General, Haryana
also representing respondent No.3 in CWP-19912-2024, respondent No.3 in CWP-20049-2024, respondent No.3 in CWP-29676-2024, respondent No.3 in CWP-18811-2024, respondents No. 3 & 4 in CWP-19076-2024, respondents No. 3 & 4 in CWP-31182-2024 & respondent No.5 in CWP-18805-2024.

Ms. Nikita Goel, Advocate for respondent No.3 in CWP-18929-2024 & for respondent No.3 in CWP-20586-2024.

Mr. Ankur Mittal, Advocate with
Ms. Kushaldeep Kaur, Advocate and Mr. Siddhanth Arora, Advocate for respondent No.3 in CWP-31182-2024.

Ms. Harita Dhanda, Advocate for
Mr. Prateek Mahajan, Advocate for respondents No.5 and 6 in CWP-20049-2024 & CWP-20586-2024.

JAGMOHAN BANSAL, J. (Oral)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from *CWP-17852-2024*.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of public notices dated 14.07.2024 (Annexure P-5), 18.07.2024 (Annexure P-11), 21.07.2024 (Annexure P-12), 21.07.2024 (Annexure P-13) and 26.07.2024 (Annexure P-14) whereby their candidature has been rejected in BC-A/BC-B

Category on the ground that they have submitted BC-A/BC-B certificate of a date which is before the cut-off date i.e. 01.04.2023.

3. The petitioners pursuant to Advertisement No.6 dated 28.06.2024 (Annexure P-1) applied for the post of Constable (General Duty). The respondent vide aforesaid advertisement invited applications for 5,000 posts of Male Constable (General Duty) and 1,000 posts of Female Constable (General Duty). 1100 seats are reserved for BC-A/BC-B (for short 'BC') candidates in Male Category and 220 in Female Category. As per advertisement, Common Eligibility Test (for short 'CET') qualified candidates can apply for the post. The respondent prior to issuing advertisement had conducted CET. A candidate who has not qualified CET was not eligible to participate in the selection process. The result of CET was declared category-wise. CET qualified candidates applied for written examination and out of them, candidates to the extent of four times of the advertised posts were shortlisted e.g. 700 seats were ear-marked for BC-A in Male Category, 2800 CET qualified candidates were shortlisted. The entitlement of a candidate is on the basis of merit in the CET result. The respondent, pursuant to advertisement, conducted written test. Candidature of many applicants was rejected in BC Category and they were shifted to General Category. The ground of transposing candidates from BC Category to General Category was that they had submitted BC certificates issued on a date which is prior to cut-off date i.e. 01.04.2023. The petitioners after issuance of impugned public notices submitted BC certificates of a date post 31.03.2023.

There are few petitioners who have approached this Court prior to the date of written test and few have approached after declaration of result.

4. Mr. D.S. Patwalia, Senior Advocate submits that impugned notices are bad on three counts namely: -

- i. There was no cut-off date prescribed in the advertisement, thus, respondent could not notify 01.04.2023 as cut-off date;
- ii. Reservation is a substantial right conferred by Constitution of India which cannot be abridged on technical grounds;
- iii. The petitioners along with application filed BC Certificate of a date prior to 01.04.2023 and thereafter submitted BC certificates of subsequent date, though after last date of filing application, thus, there is compliance of terms and conditions of the advertisement.

Elaborating his arguments, Mr. Patwalia submits that advertisement required that every candidate shall submit his fresh latest certificate. There was no cut-off date to submit the certificate, thus, no cut-off date could be prescribed by the respondent. The respondent, as per its whims and caprices as well as after commencement of selection process introduced 01.04.2023 as cut-off date. In the absence of prescription of date either in advertisement or the rules, the respondent had no authority to prescribe cut-off date after commencement of selection process. It is trite law that rules of game cannot be changed after its commencement.

The petitioners were possessing BC certificates which were issued prior to 01.04.2023. The said certificates were uploaded while filing application. The petitioners claimed reservation in BC category. In the State of Haryana, BC certificate is linked with Parivar Pehchan Patra (for short 'PPP') issued by the State Government as per the Haryana Parivar Pehchan Act, 2021 (for short '2021 Act'). As per the said Act, a resident of Haryana may upload particulars of his family which include names, address, caste, income, assets etc. The competent authority verifies data submitted by the applicant and on the basis of verification, a certificate bearing Unique ID is issued. BC certificate is directly linked with PPP. If any person applies for BC certificate, it is issued on the basis of data available on the portal of Family Information Data Repository (PPP). The petitioner(s) at the time of filing application submitted BC certificates obtained from the portal and information contained in the certificate was based upon information of PPP. The petitioners after filing application and on account of objection raised by respondent submitted fresh BC-A/BC-B certificates which were also obtained from portal and information contained in the certificate is based upon data available for PPP.

A candidate belonging to Backward Class gets his status by birth. On account of higher income, he may fall in creamy layer, however, his caste does not change. The petitioners undisputedly belong to BC Category. They along with application form had uploaded BC certificate though it was issued prior to 01.04.2023. Eligibility for reservation and proof of eligibility are two different aspects. The petitioners belong to BC Category, thus, their eligibility is undisputed. The respondent is disputing date of proof of eligibility. The petitioner(s) in the absence of

clarity submitted BC certificate as was available. Their financial status had not changed in the subsequent certificate, thus, there was no difficulty to get certificate of subsequent years, however, it was not submitted on account of lack of clarity.

The respondent is relying upon first part of clause 6.5 of the advertisement and ignoring second part of said clause. In clause 6.5, it is clearly mentioned that in the absence of submission of BC certificate, the status would be determined from PPP. The petitioners have submitted BC certificate inscribing Parivar Pehchan Patra Number (for short 'PPN'). The respondent as per advertisement was supposed to get information from the official site of Family Information Data Repository (PPP). The respondent in case of doubt could ask the petitioners to submit certificate of subsequent years. The respondent, as per its convenience, invited objections from candidates and carried out changes in the advertisement and selection process. If the respondent, for its convenience and to remove its mistakes, could carry out corrections after commencement of process, it could also permit petitioners to submit BC certificate of a later date.

Mr. Sarthak Gupta and Mr. Prashant Singh Chauhan, Advocates submit that petitioners at the time of conducting CET submitted their BC certificate. The advertisement was in furtherance of CET. Only candidates who had qualified CET were eligible to apply. The name of petitioners figured in the merit list of CET. They had submitted BC certificate at the time of exam. The respondent did not permit candidates to apply across the board whereas result of CET was declared category-wise and applicants to the extent of four times of advertised posts were shortlisted in their category.

In this way, the advertisement in question was in continuation of CET. The

petitioners participated in the CET in their category and submitted requisite certificates. No objection was raised by authorities and the result was declared in their category. The eligibility of every candidate *qua* their category settled as soon as result of CET was declared and they fell within four times of advertised posts.

The certificate of BC is directly linked with PPN. Certificate of BC is downloaded from the official site of the Government. An applicant is not required to furnish fresh information at the time of getting fresh certificate whereas as and when an applicant desires to get latest certificate, he has to approach portal called 'SARAL' which is linked with the site of PPP. The applicant gets certificate which is based upon information available for PPP.

5. *Per contra*, Ms. Shruti Jain Goyal, Senior Deputy Advocate General, Haryana and Ms. Dimple Jain, Deputy Advocate General, Haryana submit that as per advertisement, the petitioners were duty bound to furnish fresh latest BC certificate. Income and assets are linked with BC certificate. A certificate which is meant for Central Government jobs cannot be used for State Government jobs because income criteria of State and Central Government is different. Certificate of Scheduled Caste cannot be compared with Backward Class because principle of creamy layer is not applicable in case of SC/ST. In case latest BC certificate is not furnished, there are all possibilities that a candidate may apply and succeed whose income in last financial year has exceeded prescribed limit. The status of BC certificate is not absolute whereas it is fluid and variable. On account of change of income and assets of the family, the status of a candidate within BC category

Government may change. The petitioners were duty bound to upload their fresh latest BC certificate. There are different clauses of the advertisement which mandate that a candidate must possess certificate and upload it with his/her application which is basis for claiming benefit of reservation. The said certificate is required to be produced at the time of scrutiny. No certificate can be considered at the time of scrutiny which was neither uploaded nor was available at the time of filing application. The terms and conditions of the advertisement were quite clear and lucid. The respondent cannot act contrary to terms and conditions of the advertisement. It is settled proposition of law that terms and conditions can neither be varied nor ignored. If the petitioners are permitted to participate in the selection process, it would prejudice interest of those who had submitted valid certificate or who had not participated on account of lack of eligibility certificate. 01.04.2023 was considered as cut-off date because advertisement No.6 dated 28.06.2024 was issued in continuation of advertisement No.1 dated 12.02.2024, thus, BC certificate issued post 31.03.2023 was valid.

6. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

7. The conceded position emerging from the record is that the respondents in terms of notification dated 05.05.2022 conducted CET Group-C. The petitioners have applied for the post of Constable which falls within the purview of Group-C. The petitioners qualified CET and their name figured in the merit list. The respondent by advertisement dated 28.06.2024 invited applications from candidates who had qualified CET.

The petitioners being eligible applied for the post. Along with application, they uploaded BC certificates. The respondent verified their certificates and

by impugned order rejected their candidature on the ground that the certificates are of a date prior to cut-off date i.e. 01.04.2023. The advertisement dated 28.06.2024 was issued in continuation of earlier advertisement dated 12.02.2024. The respondent while issuing advertisement dated 28.06.2024 had issued public notice dated 28.06.2024 whereby it was clarified that the candidates who had applied pursuant to previous advertisement i.e. advertisement No.01/2024 would not be required to file fresh application. The respondent in Clause 6.5 of the advertisement provided that candidates belonging to BC Category should attach fresh latest certificate else caste/category mentioned in PPP will be considered. The petitioners submitted BC certificates which were issued prior to 01.04.2023. In view of advertisement dated 28.06.2024, the latest certificate should be of a date post 31.03.2024, however, in view of public notice dated 28.06.2024, the cut-off date should be 31.03.2023. The respondent has enacted 2021 Act. As per the said Act, any person may upload his particulars with respect to his age, caste, income and assets. There is another portal known as 'SARAL' which is directly linked with the portal for PPP. The information available on portal of PPP and SARAL are inter-linked.

8. The petitioners are claiming that they were possessing BC certificates issued prior to 01.04.2023 which were uploaded with application form. As per Clause 6.5 of the advertisement, the respondent could get information from PPP in the absence of requisite BC certificate. The PPP site is directly linked with SARAL i.e. portal for BC certificate and this is the reason that in the advertisement it has been provided that in the absence of certificate furnished by candidate, the

Commission would rely upon PPP for the purpose of caste/category. The

respondent is claiming that petitioners were duty bound to furnish latest fresh certificate. If in the absence of fresh latest certificate, the Commission was bound to rely upon PPP, there was no reason to insert requirement of submission of fresh latest certificate. The requirement of fresh latest certificate would become otiose if it is concluded that Commission was duty bound to rely upon caste/category data available in PPP.

9. From the arguments of both sides and perusal of advertisement, the following questions arise for the consideration of this Court: -

- i. Was there any cut-off date for filing BC certificate?
- ii. Were petitioners bound to submit fresh latest BC certificate along with application?
- iii. Was respondent in the absence of latest BC certificate duty bound to rely upon PPP?
- iv. Could petitioners on account of non-submission of fresh latest BC certificate be transposed to general category?

10. The respondent by notification dated 05.05.2022 issued a detailed procedure with respect to CET. The said notification clearly provides that for Group C & D posts, the aspirants would be required to qualify CET. A candidate can apply for the post, if he has qualified CET. In clause 7, a detailed procedure has been prescribed. The relevant extracts of notification dated 05.05.2022 are reproduced as below: -

“No. 42/119/2019-5GS-I.— Whereas fair and reasonable process of selection to posts subject to the norm of equality of opportunity under Article 16(1) of the Constitution of India is a constitutional requirement.

Whereas with a view to secure and sustain the confidence of the public in general and to ensure credible and

trustworthy recruitments to Government posts, the Government of Haryana proposes to introduce a Common Eligibility Test to simplify and standardize the recruitment process for Government employment to all direct recruitment to Group C posts including the posts of Police service, Prisons and Home Guards etc. but excluding the teaching posts and all direct recruitment to Group D posts other than the posts where minimum educational qualification is below Matriculation in the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018 (5 of 2018). This test shall be held once every year or as decided by the Government from time to time. In supersession of Haryana Government, General Administration Department (in General Services-I Branch), Notification No. 42/119/2019-5GS-I, dated the 10th September, 2021, the State Government is pleased to declare the following policy for recruitment through the Common Eligibility Test, namely:-

1. SHORT TITLE AND APPLICABILITY.

- (i) This policy may be called the Policy for Recruitment to Group C and D posts through Common Eligibility Test, 2022.*
- (ii) It shall apply to direct recruitment to Group C posts including the posts of Police service, Prisons and Home Guards etc. excluding the teaching posts and Group D posts other than those posts where minimum educational qualification is below Matriculation in the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018 (5 of 2018), in the departments of State Government or any Board, Corporation, statutory body or any other agency owned and controlled by the State Government other than any University established by or under a State Act.*

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5. REGISTRATION FOR CET :

- (i) *All applicants shall register on a designated portal i.e. onetimeregn.haryana.gov.in by such last date to be published by an advertisement issued by the Commission, providing all particulars relating to the identity of the applicant and uploading all the required documents relating to any claim including claim for reservation, educational qualifications, experience and socio-economic criteria weightage and such other details as the Government or the Commission may seek, from time to time, for the purpose of recruitment.*
- (ii) *The Parivar Pehchan Number enables the recruiting agency to verify the applicant's claims in respect of residence, educational and other qualifications, caste and experience certificate, family income/assets, status of parents (if any parent is deceased the verification of death certificate is involved), marital status of female applicant, separation certificate of legally separated women, disability certificate, sports gradation certificate, denotified tribe/Vimukt Jati certificate, certificate of ex-serviceman, dependent of ex-servicemen certificate, dependent of freedom fighter, FIR copy etc.*

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7. *CET EXAMINATION AND MARKS FOR GROUP C POSTS:*

- (i) *An applicant who intends to apply for direct recruitment to any applicable Group C post shall have to appear in CET for Group C posts.*
- (ii) *The Commission shall issue an advertisement for Group C posts based on requisition received from the Departments of State Government or any Board, Corporation, statutory body or any other agency owned and controlled by the State Government stating its intent to conduct the CET.*
- (iii) *An applicant who does not possess the CET minimum educational qualification specified for CET before the last date of registration for CET on the designated portal but is due to appear for the examination to*

attain the appropriate educational qualification during the year in which the CET is conducted, shall also be eligible to appear in the CET:

Provided that the name of such applicant shall not be considered for skill and/or written examination for the advertised posts until he acquires the minimum essential educational qualification and/or experience, if any, specified for that post by the last date for attaining such minimum qualification specified in the advertisement issued by the Commission for the conduct of skill and/or written examination.

- (iv) An applicant who has not attained the minimum age or who has crossed the maximum age limit prescribed by Government for entry into Government service for Group C post as on the last date fixed in the advertisement published by the Commission for registration for CET shall be ineligible to appear in CET. The relaxation in upper age limit to the applicants of Scheduled Castes, Backward Classes and other categories and of experience shall be admissible as per rules or instructions issued by Government from time to time.*
- (v) Every applicant, who appears in the CET, shall be given marks based on his performance in the CET. An applicant of general category shall have to obtain minimum 50% marks in CET (excluding the socio-economic criteria weightage) to be eligible for skill and/or written examination of second stage, however, an applicant of reserved category (both vertical and horizontal) shall receive concession @ 10%, for the purpose of eligibility for CET, i.e. the minimum cut-off for such candidates shall be 40% (excluding the socio-economic criteria weightage). An applicant of any category who obtains less than the minimum marks in CET, shall have to re-appear in CET in the next or any subsequent attempt.*
- (vi) The CET marks of applicants shall be declared on the website of the Commission.*

- (vii) *An applicant shall be eligible to reappear in CET whenever conducted on a subsequent date and the CET marks shall be revised if the applicant improves it in the next or any subsequent attempts.*
- (viii) *There shall be no restriction on the number of attempts to appear in the written examination component of the CET. If an applicant who has already qualified the CET for Group C post will have the option to appear again in CET to improve his CET marks in the next or any subsequent occasion, if he so desires.*
- (ix) *The CET marks obtained by an applicant shall be valid for a period of three years from the date of declaration of the result of CET. Provided that if an applicant improves his CET marks in the next or any subsequent attempt, then the fresh period of validity of three years will commence from the date of declaration of result of such attempt.*
For clarification on validity of CET marks, see Illustration No. 1 at Annexure-C of this policy.
- (x) *For calculation of CET score of an applicant, the marks obtained in the CET shall be added to the score, if any, on account of socio-economic criteria weightage to arrive at the CET score of the applicant. The calculation methodology for arriving at the CET score has been illustrated at Illustration No. 2 at Annexure-C.*
- (xi) *CET marks and the marks of socio-economic criteria weightage, if any, shall be declared on the website of the Commission in respect of the applicants who have achieved the specified cut-off as per sub-clause (v) above.”*

11. From the perusal of above quoted clauses, it is evident that that respondent-State with intent to shortlist candidates for Group-C & D posts has notified CET. This is first stage of selection process. A candidate may participate in CET as many times as he wants. The minimum educational

further provided that a candidate belonging to General Category would stand qualified if he attains 50% marks and 40% in case he belongs to reserved category (both vertical and horizontal).

12. The respondent issued advertisement No.1/2024 dated 12.02.2024 inviting applications for 5000 posts of Male Constable and 1000 posts of Female Constable (General Duty). The said advertisement was cancelled on account of orders of this Court. The respondent issued public notice dated 28.06.2024 while issuing fresh advertisement inviting applications for afore-stated posts. In the public notice, it was made clear that applicants who had already applied pursuant to advertisement No.1/2024 shall not be required to apply afresh. Public notice dated 28.06.2024 is reproduced as below: -

“PUBLIC NOTICE

In view of Hon’ble High Court judgment dated 31.05.2024 in LPA 1037/2023, the Commission has uploaded the revised result of CET Group-C vide public notice dated 25.06.2024. Now, in further compliance to Hon’ble High Court directions in said judgment, the fresh advertisement is to be issued. Online portal for calling of fresh applications for Police Constable Posts from CET Group-C qualified candidates after re-advertising these posts has been made live. Candidates are advised to apply for these posts by visiting the link given. <https://adv062024.hryssc.com/> from 29.06.2024 to 08.07.2024 till 11.59 P.M. Thereafter link will be disabled.

Important Note:

- 1. Since in the Police Advt. 01/2024, the applications had been called from 20.02.2024 till 28.03.2024 and no further process regarding the recruitment has happened, therefore, the candidates who have applied for the Police constable posts through Advt. No. 01/2024 need not apply again. Their previous applications after removing the socio-economic criteria related claims, shall be considered for further process of recruitment.*

However, if any candidate still wants to apply afresh, he/she may do it by visiting to above mentioned link, the latest details of such candidates shall be considered for the recruitment process of Police Constable posts.

- *If any candidate have any grievance related to online application, the same may be raised online by visiting the grievance management menu in the candidate login. No request related to any grievance shall be dealt offline by the Commission.*
- 2. *The other details related to the re-advertised posts have been mentioned in the respective advertisements. Candidates are advised to go through the advertisement document properly and then apply for the posts.*

Place: Panchkula

Dated: 28th June, 2024

-Sd/-

*Secretary,
Haryana Staff Selection Commission,
Panchkula”*

13. The dispute primarily revolves around clause 6 of the advertisement. For the ready reference, clause 6 of the advertisement is reproduced as below: -

“6. Reservation:

- 6.1. *Implementation of reservation policy, maintaining reservation roster and earmarking of vacancies for different categories comes under the domain of the concerned departments and Commission has nothing to do with the number of posts requisitioned under different categories. Benefit of reservation to the persons of reserved category will be as per Haryana Government instructions contained in letter No. 22/10/2013-1GS-III, dated 15.07.2014 and thereafter issued from time to time upto the date of advertisement shall be applicable.*
- 6.2. *The short listing of candidates shall be done on the basis of particulars filled in online application form for which supporting documents shall be uploaded. As candidates can update their particulars till closing*

date, thereafter, no change of particular at any stage shall be entertained. In absence of documentary evidence or mismatch in claimed category and uploaded documents, candidature of candidate shall be considered under General category/Parent category, subject to his/her fulfilling eligibility in General category/Parent category.

- 6.3. *The benefit of reservation will be given only to those SC/BCA/BCB/EWS and ESM candidates who are bonafide resident of Haryana State and submit the application against reserved category posts. As per letter No. 22/88/96-3GS III dated 25.06.1997, if any member/members belonging to Scheduled Castes/Backward classes is/are selected in the open competition for direct recruitment on the basis of their own merit, they will not be counted against the quota reserved for Scheduled Castes/Backward classes, they will be treated as open competition candidates. However, such candidates should fulfill conditions of eligibility regarding age etc. as are meant for general category candidates.*
- 6.4 *EWS certificate (valid for State of Haryana) on prescribed proforma should be valid for the year in which the candidates have applied for the posts as per govt. instructions issued vide no. 22/12/2019-1GS-III, dated 25.02.2019. EWS certificate issued for jobs in Central Govt. will not be considered irrespective of income mentioned in certificate.*
- 6.5 *The candidates belonging to BC-A/BC-B categories should attach the fresh latest BC-A or BC-B certificate as the case may be as per Haryana Government instruction issued vide no. 22/132/2013-1GS-III, dated 22.03.2022 or his/her caste/category mentioned/verified in Parivar Pehchan Patra will be considered. OBC certificate issued for jobs in Central Govt. will not be considered irrespective of income mentioned in certificate.*

6.6. *The reserved category candidates belonging to other States will be allowed to compete against the posts meant for general category only and will be considered as general category candidates.”*

[Emphasis supplied]

14. From the plain reading of clause 6.5, it is evident that candidates belonging to BC category should attach fresh latest certificate or Commission would consider caste/category from PPP. There are different clauses in the advertisement which provide that the candidate is required to upload documents along with application and only uploaded documents/certificates would be considered at the time of scrutiny of documents. No certificate which is not uploaded can be submitted at the time of scrutiny of documents. Relevant clauses of the advertisement are reproduced as below: -

“7. **Regulatory Framework**

- (i) *EWS certificate as per Annexure I.*
- (ii) *Qualifications i.e. degree, diploma, certificates, experience and other terms & conditions of eligibility will be determined with regard to the last date fixed for receipt of online applications also termed as closing date.*

Important Guidelines:-

- 1. *Proforma/Formats for certificates are available as Annexure-I of this advertisement.*
- 2. *Claim of reservation etc., if any, shall be admissible to those candidates only, who upload the requisite valid original certificate along with their application in support of their claim and are of Haryana domicile.*
- 3. *The benefit of reservation will be given only to those SC/BCA/BCB/EWS and ESM candidates who are domicile of Haryana State.*

4. The SC/BCA/BCB/EWS candidates are required to upload SC/BCA/BCB/EWS Certificates duly issued by competent authority with application form. The uploaded documents issued before the last date of application shall only be considered.

8. **How to apply:**

8.1. XXXX XXXX XXXX XXXX

8.2. Apply online well in advance without waiting for last date of submission of online application form. Before submission of the online application, candidates must check that they have filled correct details in each field of the form. A candidate may edit his/her application form till the last date of submission of application forms i.e. closing date. After closing date of application, no change/ correction/modification will be allowed under any circumstances. Requests received in this regard in any form like Post, Fax, Email, by hand etc. shall not be entertained and shall be deemed to be rejected.

8.3. XXXX XXXX XXXX XXXX

8.4. The hard copy of application form along with all uploaded documents must be brought at the time when called upon to do so by Haryana Staff Selection Commission. Documents which have not been uploaded shall not be entertained. However, HSSC may ask an additional paper in support of already submitted document for more clarity, if required.

8.5 & 8.6 XXXX XXXX XXXX XXXX

8.7. Candidates who do not fulfill the qualifications/eligibility conditions on cutoff date, their application shall be liable to be rejected. All the Certificates/Documents relating to educational qualification/eligibility conditions & experience etc. will be determined with regard to last date fixed to

apply online applications or as mentioned in the notification, wherever applicable.

XXXX XXXX XXXX XXXX

10. **Documents to be uploaded with Application Form (MANDATORY)**

10.1. *Scanned Copy of Essential Academic Qualifications and Matriculation Certificate showing Date of Birth and other relevant details.*

10.2. *Scanned Copy of SC/BCA/BCB/EWS/ESM certificate, certificate for family member of ESM and children/grandchildren of Freedom Fighters.*

10.3. *Scanned copy of Certificate supporting claims of reservation/weightage/relaxation(s).”*

XXXX XXXX XXXX XXXX

11.7 *All rules/instructions prevailing on cut-off date shall be applicable.*

XXXX XXXX XXXX XXXX

11.14 *If any document is required to be renewed/re-issued, candidate must bring both old and new documents.”*

14.1 From the perusal of above quoted clauses of the advertisement, it is evident that every applicant was bound to possess and upload BC Certificate to claim benefit of reservation. If a candidate fails to upload a document or certificate, it cannot be produced or considered at the time of scrutiny of documents.

15. The advertisement was issued on 28.06.2024 and last date for filing application was 08.07.2024. As per terms and conditions of the advertisement, every candidate claiming reservation was bound to upload his/her caste certificate. The last date for uploading the application along with documents was 08.07.2024 meaning thereby a candidate claiming reservation was supposed to have requisite certificates latest by 08.07.2024.

If he opts to file application before the last date, he was supposed to have certificates by said date because in the absence of possession of certificates,

he could not upload those certificates along with Application Form. Candidates belonging to BC category were supposed to file BC certificate along with Application Form. The format of certificate has been prescribed in the advertisement read with instructions. BC certificate available on SARAL Portal which is linked with PPP incorporates annual income and discloses that candidate does not fall within creamy layer. For the ready reference copies of BC certificate and PPP are reproduced as below: -

“BC CERTIFICATE

Parivar Pechan Number: 4VKE6945

Certificate Number: HRBC/2024/63412

Government of Haryana

Backward Class Certificate

This is to certify that Mr. NAVEEN son of Mr. RAJ KUMAR resident of H.No.52, VPO PANJUANA SIRSA, Village Panjuana, Tehsil Sirsa, District SIRSA in the State of Haryana belongs to Kamboj Caste. This caste is mentioned in the Backward Class Block “A” in Schedule “I” to the Haryana Backward Classes (Reservation in Services and Admission in Educational Institutions) Act, 2016 (15 of 2016).

Mr. NAVEEN and/or his family ordinarily reside(s) in H. No.52, VPO PANJUANA SIRSA, Village Panjuana, Tehsil Sirsa, District SIRSA of the Haryana State.

This is to certify that he/she does not belong to creamy layer as per the Haryana State notification no.491-SW(1)-2021 dated 17.11.2021.

Place: Sirsa

Dated: 10.03.2024

Issued by

*Additional Deputy Commissioner-cum-
District Citizen Resources Information Officer
District Sirsa”*

was Rs.6 lakh per annum. The notification dated 17.11.2021 is reproduced as below:

“Haryana Government
Welfare of Scheduled Castes and Backward Classes
Department
Notification
The 17th November, 2021

No. 491-SW(1)-2021. In exercise of the powers conferred under clause (d) of Section 2 and Sub-section (2) of Section 5 of the Haryana Backward Classes (Reservation in Services and Admission in Educational Institutions) Act, 2016 (15 of 2016), and in supersession of the Haryana Government, Welfare of Scheduled Castes and Backward Classes Department, notification No. 808-SW(1), dated the 17th August, 2016 and the Haryana Government, Welfare of Scheduled Castes and Backward Classes Department, notification No. 1282-SW(1), dated the 28th August, 2018, the Governor of Haryana hereby specifies the following criteria for exclusion of persons within the Backward Classes as Creamy Layer as per Annexure appended hereto.

Annexure

<i>DESCRIPTION OF CATEGORY</i>		<i>TO WHOM RULE OF EXCLUSION SHALL APPLY</i>
<i>1</i>	<i>2</i>	<i>3</i>
<i>I.</i>	<i>XXXX</i>	<i>XXXX</i>
<i>V.</i>	<i>Income Test/Wealth Test</i>	<i>Son(s) and daughter(s) of parents</i> <i>Having gross annual income of Rs. 6 lakhs or above.</i> <i>OR</i> <i>Possessing wealth above Rs. 1 Crore for a period of last three consecutive years.</i> <i>Explanation:</i> <i>Income from all sources shall be clubbed to arrive at the gross annual income.”</i>

17. The notification dated 17.11.2021 has been issued in exercise of power conferred by Section 5 of Haryana Backward Classes (Reservation in Services and Admission in Educational Institutions) Act, 2016 (for short '**2016 Act**'). Section 5 of 2016 Act provides that no member of BC shall be entitled to admission and job if he belongs to creamy layer. Section 5 of 2016 Act reads as: -

“5. (1) Notwithstanding anything contained in this Act, no person belonging to the creamy layer of Backward Classes shall be—

(a) considered for admission in educational institutions against the seats reserved therein for Backward Classes as specified in the Schedule; or

(b) entitled to claim reservation in or be considered for appointment in services under the State against the posts reserved for Backward Classes as specified in the Schedule.

(2) The Government shall, by notification, after taking into consideration social, economic and such other factors, as deemed appropriate, specify the criteria for exclusion and identification of persons belonging to the Backward Classes as creamy layer.

(3) The criteria fixed under sub-section (2) shall be reviewed every three years.”

18. In the advertisement dated 28.06.2024, it was prescribed that fresh latest certificate should be submitted. The certificate should be in terms of instructions dated 22.03.2022 issued by the State Government. For the sake of convenience and better appreciation of the issue, it would be useful to examine instructions dated 22.03.2022. The relevant extracts of the same are reproduced as below: -

“2. The Haryana Parivar Pehchan Act, 2021 provides for the assignment of the Parivar Pehchan Number (PPN) as a unique identifier number to each family. The database, namely Family Information Data Repository (FIDR), contains PPN along with corresponding information generally required for determining eligibility for, or the provision of any scheme, service, subsidy or benefit provided/implemented by or on behalf of the State Government/any Government agency/local authority. State Government has been empowered under section 8 of the Act to prescribe Parivar Pehchan Number (PPN) as a requirement for the purpose of determining above mentioned eligibility or provision. The verified information linked with PPN available in Family Information Data Repository (FIDR) has now made it feasible to issue Caste Certificates over the counter through the SARAL portal.

3. In view of the above, Government has decided to issue revised instructions/guidelines in supersession of all the previous instructions issued till now, as under:-

XXXX XXXX XXXX XXXX

(xiii) Validity of a Caste Certificate: -

- (i) A Caste Certificate once issued (in its standard format) shall be valid for the life time of the person so long as such caste/tribe is not removed or modified in the notifications issued by the Welfare of Scheduled Castes and Backward Classes Department, Haryana.
- (ii) Where a Caste Certificate is requested for specific use outside the context of Government of Haryana, it shall be issued in the format prescribed by the Government of India.
- (iii) Certificates which include income and/or assets based information like creamy layer criteria shall become invalid after the validity period prescribed on the said certificate. Such certificates shall be valid for the current financial year, i.e. till coming 31st March (included) from the date it has been issued.

(iv) *A Caste Certificate may also become invalid if after due process, it has been concluded that the caste was incorrectly mentioned on the certificate or wrongly verified in the FIDR, due to any reason whatsoever.*

XXXX XXXX XXXX XXXX

(xv) **General Terms and Conditions.-**

XXXX XXXX XXXX XXXX

(d) *Mere issuance of a Caste certificate does not entitle a person holding such certificate to any benefit that may be admissible under various Government Schemes implemented from time to time. Hence, it is important that the authority concerned examines the applicant's entitlement to any specific benefit in accordance with the instructions on the subject at any given point of time. For instance, a person from the Backward Class may not be entitled to certain benefits if he falls within the creamy layer as defined from time to time. Accordingly, the Caste Certificates shall address ONLY the caste of the certificate holder. Other eligibility criteria for a particular scheme shall be addressed separately by the authority extending any such benefit.*

XXXX XXXX XXXX XXXX

4. *Further, it is directed that no Government Department of Haryana shall obligate any Haryana resident to submit caste related proof documents if he/she provides PPN and his/her caste and caste category is marked as verified in Family information Data Repository (FIDR)."*

From the perusal of instructions dated 22.03.2022, it is evident that caste certificate once issued shall be valid for the lifetime of the person, however, the certificates which include income and/or assets based information like creamy layer criteria shall become invalid after the validity period prescribed on the said certificate. Such certificate shall be valid for

the current financial year i.e. till 31st March (included) from the date it has

been issued. Dichotomy between caste certificate and a certificate which includes information of creamy layer is stark. As per Clause 6.5 of the advertisement, BC certificate ought to be as per instruction dated 22.03.2022. As per instructions, the certificate having information of creamy layer is invalid after 31st March of the year. From the reading of above reproduced BC certificate, it is evident that it is disclosing that candidate does not belong to creamy layer.

19. From the conjoint reading of different instructions, enactments and terms of advertisement, the salient features of the advertisement qua reservation for BC candidates are culled out as below:-

- i. Reservation for BC candidates is governed by 2016 Act;
- ii. No BC candidate is entitled to reservation, if he belongs to creamy layer;
- iii. Validity of BC certificate is lifetime;
- iv. BC certificate can be obtained from SARAL portal;
- v. SARAL portal is inter-linked with verified data of PPP portal;
- vi. PPP portal comprises of information of a family which includes caste, income, address, number of family members, assets etc.;
- vii. Information at PPP portal is fed by resident of Haryana and it is verified by competent authority. Data which cannot be verified is reported as unverified;

- viii. BC certificate which gives information about creamy layer is valid till 31st March of the financial year;
- ix. Any person whose data is available at PPP portal may obtain BC certificate through SARAL portal;
- x. While obtaining BC certificate from SARAL portal, no information qua income is uploaded on SARAL portal;
- xi. Data at PPP portal may be changed by furnishing fresh/ additional information;
- xii. As soon as data at PPP portal is modified, data at SARAL portal stands modified e.g. if income is updated at PPP portal, updated income would be disclosed by SARAL portal while issuing BC certificate.

20. Indisputably, CET qualified candidates could apply pursuant to advertisement in question. In Clause 7(v) of notification dated 05.05.2022, it is clearly mentioned that a candidate belonging to reserved category shall be eligible for skill or written examination of second stage if he secures minimum 40% marks. The advertisement also makes it clear that CET qualified candidates are eligible for participating in the written test. The respondent shortlisted four times of advertised posts amongst CET qualified candidates. Thus, it is quite clear that written test conducted pursuant to advertisement was second stage. First stage was CET and second stage was written test as per advertisement. Clause 5 of notification dated 05.05.2022 provides that all the applicants shall upload all required documents relating to their claim including reservation. It is further provided that PPN enables the recruiting agency to verify claim of the applicants in respect of

residence, educational and other qualifications, **caste and experience certificate, family income/assets**, status of parents etc.

The petitioners herein uploaded their BC certificate at the time of registration for CET. They claimed reservation under BC category. They participated in the test under BC category and their result was declared under BC category. They were shortlisted under BC category. The respondent in case of doubt verified or could verify petitioners' claim in respect of caste and experience certificate as well as family income/assets. The respondent at first stage permitted the petitioners to participate under BC category and declared their result under BC category. They had uploaded their BC certificate and in case of doubt, the respondent must have and even otherwise, was duty bound to verify their particulars from PPN. The respondent at the first stage i.e. CET verified and accepted claim of the petitioners under BC category. There was no question of asking to furnish fresh latest BC certificate because same certificate cannot be required at different stages unless and until there is doubt or complaint against a particular person.

21. The CET notification provides that information with respect to caste and income/assets disclosed by applicant may be verified from PPN. The same clause is part of Clause 6.5 of the advertisement. At the cost of repetition but for the sake of convenience and better understanding, Clause 6.5 of the advertisement and relevant portion of Clause 5 of notification dated 05.05.2022 is reproduced as below:-

Clause 6.5 of the Advertisement:

“6.5 The candidates belonging to BC-A/BC-B categories should attach the fresh latest BC-A or BC-B certificate as the case may be as per Haryana Government

instruction issued vide no. 22/132/2013-IGS-III, dated 22.03.2022 or his/her caste/category mentioned/verified in Parivar Pehchan Patra will be considered. OBC certificate issued for jobs in Central Govt. will not be considered irrespective of income mentioned in certificate. “

Clauses 5 of the Notification:

“REGISTRATION FOR CET:

- (i) *All applicants shall register on a designated portal i.e. onetimeregn.haryana.gov.in by such last date to be published by an advertisement issued by the Commission, providing all particulars relating to the identity of the applicant and uploading all the required documents relating to any claim including claim for reservation, educational qualifications, experience and socio-economic criteria weightage and such other details as the Government or the Commission may seek, from time to time, for the purpose of recruitment.*
- (ii) *The Parivar Pehchan Number enables the recruiting agency to verify the applicant’s claims in respect of residence, educational and other qualifications, caste and experience certificate, family income/assets, status of parents (if any parent is deceased the verification of death certificate is involved), marital status of female applicant, separation certificate of legally separated women, disability certificate, sports gradation certificate, denotified tribe/Vimukt Jati certificate, certificate of ex-serviceman, dependent of ex-servicemen certificate, dependent of freedom fighter, FIR copy etc.”*

22. From the above quoted clauses of the advertisement and notification, inevitable conclusion which can be arrived at is that the respondent was able to verify applicants’ claim in respect of caste and family income/assets from PPP. The facility was available at the time of

CET as well as 2nd stage test. There was no question to deny benefit on the ground that the applicant had not submitted latest fresh BC certificate.

23. The respondent conducted CET on 05.11.2022 & 06.11.2022. The applicants filed their documents during May-July' 2022. The financial year applicable at the time of filing documents for CET was 2021-22. The financial year for the candidates who applied pursuant to original advertisement issued in February' 2024 was 2022-23. The financial year for the candidates who applied pursuant to advertisement issued in June' 2024 was 2023-24. In this way, three different financial years were involved. CET was first stage. There were possibilities of change of financial status of candidates during these financial years. The respondent verified and accepted financial status of a candidate at the time of conducting CET. As financial status determining eligibility to claim reservation was determined at the time of CET, there was no question of re-determination of status at the time of second stage. From the commencement of CET to filing of application pursuant to advertisement dated 28.06.2024, three different financial years came to be involved. As per notification issued under Section 5 of 2016 Act, financial status is not determined on the basis of income of three different financial years whereas it is determined on the basis of annual gross income of one year even though assets are considered of three consecutive years. On account of involvement of three financial years, it would be unjust and unfair to consider 01.04.2023 as cut-off date especially when for the CET financial year involved was 2021-22.

24. The respondent in the impugned order has held that BC certificate is of before cut-off date i.e. 01.04.2023. The petitioners downloaded BC certificate from SARAL Portal. The petitioners have

enclosed BC certificates of different years e.g. BC certificates of Naveen S/o Raj Kumar is dated 23.03.2023 and another 10.03.2024. Both the certificates have been downloaded from SARAL Portal. As per procedure prescribed in the 2021 Act, an applicant uploads his particulars on the official site. The competent authority verifies said information. It is called as 'verified information' which forms basis of BC certificate obtained from SARAL port. The applicant may update 'verified information' and is bound to update if directed by competent authority. The petitioners uploaded information prior to filing application for CET. On the basis of said information, BC certificate was issued by SARAL portal. If a candidate applies either in 2022 or 2023 or 2024 for BC certificate, the contents of the certificate except date of certificate would remain same unless and until information available at PPP portal is undated. The respondent during the course of hearing harped on the question of date of certificate which indicates that either respondent has failed to understand the system of SARAL and PPP portal or there is some mis-communication. The respondent should ask BC certificate having incorporated income of a particular Financial Year.

The State Government with intent to achieve goal of upliftment of poor strata of the society has evolved a novel electronic mechanism of personal information. Information available on PPP portal is utilized for all beneficial schemes introduced by State Government. SARAL portal is part of benevolent schemes introduced by State Government. Object of SARAL portal is to provide BC certificate without physically approaching the authorities and within shortest possible time. PPP portal discloses verified as well as non-verified information of the candidates. It opens horoscope of the family. The respondent knowing this fact jotted down in the notification of

CET as well as advertisement in question that if latest BC certificate is not filed, status would be confirmed from PPP. Intent as well reason was stark and sound. There was not even an iota of doubt. Mess developed due to long time gap in the date of filing application for CET, cancellation of first advertisement and issuance of second advertisement that too in the next financial year. In this process, three financial years came to be involved. Data available on PPP portal was not updated, thus, BC certificate obtained from SARAL port, irrespective of the date of request was bound to give same information. The respondent accepted BC certificate obtained from SARAL portal which on account of afore-stated reasons was bound to give same information irrespective of date of request made on SARAL portal. Object of denial of benefit of BC to a candidate belonging to creamy layer could not be achieved unless and until latest financial status as contemplated by notification issued under Section 5 of 2016 Act is gathered. This was possible either by asking the candidates to upload latest financial information at PPP portal or furnish manual BC certificate disclosing latest financial information. The respondent in the notification issued for CET and Advertisement has provided for verifying BC status from PPP, thus, there was no reason to deny benefit of reservation on the ground of non-submission of latest fresh BC certificate.

25. A conspectus of BC certificate, notification dated 17.11.2021 and instructions dated 22.03.2022, reveals that BC certificate which includes income & assets-based information like creamy layer is valid till 31st March from the date it has been issued e.g. a certificate issued on 01.01.2024 shall be valid till 31.03.2024. As per Income Tax Act, 1961 financial year sprawls from 1st April to 31st March like 01.04.2022 to 31.03.2023 is one financial

year. Creamy layer status is determined on the basis of income and assets held by family during a financial year. A person may not be covered by concept of creamy layer in one particular year but may be in subsequent years. As per notification dated 17.11.2021 issued under Section 5 of 2016 Act, a member of BC category belongs to creamy layer if his parents are having gross annual income of ₹6 Lakhs or above or possessing wealth above ₹1 Crore for a period of last three consecutive years.

From the conjoint reading of Section 5 of 2016 Act, notification issued thereunder, instruction dated 22.03.2022 and Clause 6.5 of the advertisement, it is evident that a candidate was not entitled to reservation under BC category, if his parents were having gross annual income of ₹6 Lakh or above. Claim of the petitioners that concept of creamy layer is not relevant and only BC certificate was required is misconceived. Section 5 of 2016 Act is a statutory provision which cannot be ignored. A candidate claiming reservation as BC was bound to prove that he did not belong to creamy layer. Concept of creamy layer as envisaged by Section 5 of 2016 Act cannot be ignored.

26. The petitioners are claiming that there is no cut-off date thus, respondent has wrongly considered 01.04.2023 as cut-off date. As per the respondent, candidates were required to submit BC certificate of a date post 31.03.2023 and it must have been uploaded alongwith Application Form.

The Courts, time and again, have held that in the absence of specific condition in the advertisement or rules, the last date for filing application should be considered as cut-off date. The date of interview or scrutiny of documents is always variable, however, last date for filing

application is not variable, accordingly, last date for filing application should

be considered as cut-off date. There may be substantial gap between last date for filing application and date of scrutiny of documents/exam and in the interregnum status of candidates may change on account of change of income/assets.

27. If Clause 3(xiii)(iii) of the instructions dated 22.03.2022 is applied to the instant case, only certificates issued after 31.03.2024 could be considered as valid. The certificates which were issued prior to 01.04.2024 lost their life on 31.03.2024. Those were non-existent after 31.03.2024. The respondent has vehemently pleaded that cut-off date for all intents and purposes was 01.04.2023. The respondent is relying upon public notice dated 28.06.2024 which was issued along with advertisement. If the public notice is read with advertisement in question, the certificates which were issued after 31.03.2023 as well as certificates issued after 31.03.2024 were valid. There must be few candidates who had applied pursuant to advertisement dated 12.02.2024. For them, fresh latest certificate in view of instructions dated 22.03.2022 was of a date issued on or after 01.04.2023 whereas for those candidates who applied pursuant to advertisement dated 28.06.2024, the certificate issued on or after 01.04.2024 was valid. Thus, stand of respondent that cut-off date for fresh latest certificate for each candidate was 01.04.2023 is misconceived and unsustainable. This shows that respondent itself created a mess and was not clear that which certificate would be valid. The cut-off date got confused. The respondent in the advertisement could spell out that certificates of this and this particular year would be relevant.

28. It is undisputed fact that petitioners uploaded BC certificates

advertisement, the respondent could very easily prescribe that certificate of a particular year would be acceptable. The respondent did not prescribe particular financial year and on the other hand prescribed that in case fresh latest certificate is not filed, caste and category mentioned in PPP would be considered. Indubitably, BC certificate is obtained through SARAL portal which is connected with portal meant for PPP. In every BC certificate PPN is inscribed, meaning thereby as soon as BC certificate is available, everyone comes to know about PPN and information with respect to said person may be obtained from the site of PPP. The site meant for PPP is an official site and respondent has free access. The respondent knowing the said process jotted down in clause 6.5 that in case fresh latest certificate is not uploaded, information with respect to caste and category would be obtained from PPP. It does not seem to be a mistake whereas it seems to be a conscious decision. The respondent was bound to collect information from PPP in case of non-submission of BC certificate or wrong submission of BC certificate. It appears that intention of drafters of the advertisement was to avoid litigation which normally ensue on account of non-submission or wrong submission or late submission of BC certificates. The respondent cannot travel beyond the terms and conditions of the advertisement. The terms and conditions of the advertisement are quite clear and lucid. The respondent was duty bound to obtain information from PPP in case of doubt.

29. In *Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board and another*, (2016) 4 SCC 754, a two Judge Bench of Supreme Court considered the question as to whether a candidate who appears in the examination under OBC category and submits his caste certificate after the last date mentioned in the advertisement is eligible for

selection to the post under the OBC category or not. In the said case, Delhi Subordinate Services Selection Board, Delhi invited applications for selection to the post of Staff Nurse in the Department of Health and Family Welfare, Government of NCT of Delhi. Ram Kumar Gijroya submitted his application Form before the due date and appeared in the examination. His name did not appear in the final list of selected candidates. His candidature was rejected on the ground that he has failed to submit OBC certificate issued by appropriate authority alongwith application Form before the last date of submission of application Form. He preferred writ petition before the Delhi High Court which was allowed by Single Judge, however, Division Bench set aside order of Single Judge and allowed Letters Patent Appeal. The Supreme Court while relying upon Constitution Bench judgment in ***Indra Sawhney v. Union of India, 1992 Supp. (3) SCC 217*** and ***Valsamma Paul (Mrs) v. Cochin University (1996) 3 SCC 545*** set aside judgment of Division Bench of Delhi High Court and restored the judgment passed by Single Judge. The relevant extracts of the judgment are reproduced as below:

“18. In our considered view, the decision rendered in Pushpa [Pushpa v. Govt. (NCT of Delhi), 2009 SCC OnLine Del 281] is in conformity with the position of law laid down by this Court, which have been referred to supra. The Division Bench of the High Court erred in reversing the judgment and order passed by the learned Single Judge, without noticing the binding precedent on the question laid down by the Constitution Benches of this Court in Indra Sawhney [Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385] and Valsamma Paul [Valsamma Paul v. Cochin University, (1996) 3 SCC 545 : 1996 SCC (L&S) 772 : (1996) 33 ATC 713] wherein this Court after interpretation of Articles 14, 15, 16

and 39-A of the directive principles of State policy held that the object of providing reservation to the SCs/STs and educationally and socially backward classes of the society is to remove inequality in public employment, as candidates belonging to these categories are unable to compete with the candidates belonging to the general category as a result of facing centuries of oppression and deprivation of opportunity. The constitutional concept of reservation envisaged in the Preamble of the Constitution as well as Articles 14, 15, 16 and 39-A of the directive principles of State policy is to achieve the concept of giving equal opportunity to all sections of the society. The Division Bench, thus, erred in reversing the judgment and order passed by the learned Single Judge. Hence, the impugned judgment and order passed by the Division Bench in Letters Patent Appeal No. 562 of 2011 is not only erroneous but also suffers from error in law as it has failed to follow the binding precedent of the judgments of this Court in Indra Sawhney [Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385] and Valsamma Paul [Valsamma Paul v. Cochin University, (1996) 3 SCC 545 : 1996 SCC (L&S) 772 : (1996) 33 ATC 713] . Therefore, the impugned judgment and order [Delhi Subordinate Services Selection Board v. Ram Kumar Gijroya, 2012 SCC OnLine Del 472 : (2012) 128 DRJ 124] passed by the Division Bench of the High Court is liable to be set aside and accordingly set aside. The judgment and order dated 24-11-2010 passed by the learned Single Judge in Ram Kumar Gijroya v. Govt. (NCT of Delhi) [Ram Kumar Gijroya v. Govt. (NCT of Delhi), WP (C) No. 382 of 2009, order dated 24-11-2010 (Del)] is hereby restored.

19. *The appeals are allowed. No costs.”*

29.1 The aforesaid judgment came to be doubted by a Division Bench in ***Karn Singh Yadav v. Government of NCT of Delhi and others, (2024) 2 SCC 716***. The Division Bench vide order dated 24.01.2020 opined that matter requires to be considered by larger Bench of three Judges. The

Court observed that in every advertisement there are belated claims, claiming reservation though candidates do not submit certificates from the competent authority before the cut-off date. The relevant extracts of order dated 24.01.2020 are reproduced as below: -

“5. In view of the acute problem of unemployment, whenever few vacancies are notified by any public authority, it is common that thousands of applicants apply for such posts. If the applicants are permitted to rectify applications after cut-off dates, the same would render the scrutiny process indefinite. In the course of such recruitment process, many persons, though they belong to the OBC category or SC/ST category, might not have obtained the required caste certificate before the cut-off date. Such persons, being law abiding and being conscious of the bar contained in the notification of the cut-off date, might not have applied seeking employment. In case the authority starts accepting caste certificates subsequent to the prescribed cut-off dates whenever a candidate approaches the authority, the remaining candidates who had not applied would definitely be affected. If the applicants are allowed to submit certificates in proof of their claim of reservation subsequent to the notified cut-off date, it would create administrative chaos.

6. In practice, for every advertisement, there are such belated claims claiming reservation, though the candidates did not submit certificate from the competent authority, before the cut-off date. In view of the general importance of the question, we are of the view that the issue which fell for consideration in Ram Kumar Gijroya [Ram Kumar Gijroya v. DSSSB, (2016) 4 SCC 754 : (2016) 1 SCC (L&S) 742] requires to be considered by a larger Bench of three Judges.

7. Accordingly, we refer the matter for consideration by a larger Bench of three Judges. Registry to place the papers before the Hon'ble the Chief Justice for appropriate orders.”

29.2 A three Judges Bench in ***Karn Singh Yadav v. Government of NCT of Delhi and others, (2024) 2 SCC 588*** considered the issue. The Court without advertng to question raised by Division Bench held that instant matter is completely covered by judgment of ***Ram Kumar Gijroya (supra)***. The relevant extracts of the judgment reads as:

“4. It must be stated here that an identical fact situation came up for consideration before this Court in *Ram Kumar Gijroya v. DSSSB [Ram Kumar Gijroya v. DSSSB, (2016) 4 SCC 754 : (2016) 1 SCC (L&S) 742]*, wherein this Court ruled in favour of the candidate concerned. The instant matter is thus completely covered by the said decision.

5. However, it must be noted here that as a result of cancellation of the candidature, the appellant was never appointed to the post in question and at this length in time, it will not be possible to grant any substantial relief to the appellant.”

29.3 A two Judge Bench of Supreme Court in ***Divya v. Union of India and others, 2024(1) SCC 448*** while advertng to question of validity of BC certificate filed after the last date for filing application has held that certificate filed after the last date prescribed for filing application cannot be considered. BC certificate is directly linked with income and assets criteria, resultantly, BC status is fluid and variable. Relevant extracts of the judgment read as under: -

“51. It is also very well settled that if there are relevant rules which prescribe the date on which the eligibility should be possessed, those rules will prevail. In the absence of rules or any other date prescribed in the prospectus/advertisement for determining the eligibility, there is a judicial chorus holding that it would be the last date for submission of the application. (See *Rekha Chaturvedi v. University of Rajasthan [Rekha Chaturvedi v. University of Rajasthan,*

1993 Supp (3) SCC 168 : 1993 SCC (L&S) 951] ; Bhupinderpal Singh v. State of Punjab [Bhupinderpal Singh v. State of Punjab, (2000) 5 SCC 262 : 2000 SCC (L&S) 639] ; Ashok Kumar Sonkar v. Union of India [Ashok Kumar Sonkar v. Union of India, (2007) 4 SCC 54 : (2007) 2 SCC (L&S) 19].)

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63. Apart from all of this, the correctness of Ram Kumar Gijroya case [Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board, (2016) 4 SCC 754 : (2016) 1 SCC (L&S) 742] was referred to a three-Judge Bench in Karn Singh Yadav [Karn Singh Yadav v. State (NCT of Delhi), (2024) 2 SCC 716 : 2020 SCC OnLine SC 1472] . A perusal of para six of the referral order clearly shows that the Bench was echoing the ratio of the three-Judge Bench in Ashok Kumar Sharma case [Ashok Kumar Sharma v. Chander Shekhar, (1997) 4 SCC 18 : 1997 SCC (L&S) 913] though there is no express reference to the said case. However, when the matter came before a three-Judge Bench, the reference was not answered and even after noticing that Ram Kumar Gijroya case [Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board, (2016) 4 SCC 754 : (2016) 1 SCC (L&S) 742] covered Karn Singh Yadav [Karn Singh Yadav v. State (NCT of Delhi), (2024) 2 SCC 716 : 2020 SCC OnLine SC 1472] (two-Judges), the Court, however, denied relief to Karn Singh Yadav, the petitioner by holding that since the appellant was never appointed to the post at that length of time it was not possible to grant any relief to the appellant. Ram Kumar Gijroya [Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board, (2016) 4 SCC 754 : (2016) 1 SCC (L&S) 742] is clearly distinguishable.

64. Be that as it may, we are bound by the judgment of the three-Judge Bench in Ashok Kumar Sharma [Ashok Kumar Sharma v. Chander Shekhar, (1997) 4 SCC 18 : 1997 SCC (L&S) 913] and we follow the said judgment and reiterate the principle laid down therein. It is also interesting to note that even in Deepak Yadav [Deepak Yadav v. UPSC, (2022) 14

SCC 448 : (2023) 2 SCC (L&S) 809] , a judgment, strongly relied upon by the learned counsel for the petitioners, the principle in Ashok Kumar Sharma [Ashok Kumar Sharma v. Chander Shekhar, (1997) 4 SCC 18 : 1997 SCC (L&S) 913] has been reiterated. However, because of what the Court called an abnormal and cataclysmal year, an exception was made due to the ongoing pandemic, lockdown and restrictions imposed thereof. In Alok Kumar Singh [Alok Kumar Singh v. State of U.P., (2018) 18 SCC 242 : (2019) 2 SCC (L&S) 265] , no rules like the ones present in this case are shown to have existed. In the present case, there are clear prescriptions as to eligibility, as has been discussed hereinabove.

30. The respondent is primarily relying on judgment of Supreme Court in ***Divya (supra)*** to contend that backward class status is fluid and variable. It may change year to year because it is directly linked with income and assets of the family. The Court has clearly held that in case certificate is not uploaded along with the application form, benefit should be denied.

The facts of the instant case are entirely different. In the case in hand, it is no one's case that BC certificate was not uploaded. The dispute is confined to year of the certificate. There is no judgment where condition of obtaining data from PPP was existing and under consideration of the Court. As facts of present case are entirely different, the judgments cited by respondent cannot be relied upon.

31. There is another aspect of the matter which needs to be taken care of. By way of this bunch of petitions more than thousand candidates have approached this court. Mistake or negligence may be on the part of one or few but cannot be on the part of large number of candidates. It shows that there was mis-communication which led to filing of BC certificates of dates

other than expected by respondent. Merely because of some mis-

understanding, candidates who are more meritorious should not be deprived from the post. The petitioners after all are going to hold public post and selection of less meritorious candidates would be prejudicial to the interest of public at large.

32. The respondent after last date for filing application, to remove doubts, made minor corrections in the advertisement. Stand of the petitioners that they should be permitted to file BC certificates without any cut-off because respondent has made correction in the advertisement after last date for filing application is mis-conceived and needs to be rejected. The respondent for the sake clarity and without prejudice to the interest of candidates may remove doubts or carry out small repair.

33. In the wake of above facts and findings, the above raised questions are answered as:

- i. In the absence of particular date in the rules or advertisement, last date prescribed for filing application for the advertised post is cut-off date. In the instant case, cut-off date for limited purpose i.e. to upload documents, was last date notified for filing application. The said date had no bearing with the date of BC certificate.
- ii. BC-A or BC-B certificate filed at the time of CET is valid for all intent and purposes. The respondent could not ask for fresh latest BC certificate at the 2nd stage of selection process. Three financial years came to involved in view of peculiar facts and circumstances, thus, BC certificates filed at the time of CET are valid.

- iii. The respondent was bound to verify PPP in the absence of fresh latest BC certificate.
- iv. No candidate could be transposed from BC category to general category on account of non-submission of fresh latest BC certificate at the second stage.

34. In the above premise, all the petitions deserve to be allowed and accordingly allowed. The impugned orders are hereby set aside. To avoid the filing of further petitions, it is hereby made clear that benefit of this judgment would be available to all the candidates who have been transposed from BC to general category. No order as to costs.

35. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

05.02.2025
Mohit Kumar

Whether speaking/reasoned	Yes
Whether reportable	Yes