



CWP-25328-2024(O&M)
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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25328-2024(O&M)
Date of decision: 28.11.2025

Akshay Kumar

... Petitioner

Versus

Punjab State Power Corporation Ltd. and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Malik, Advocate
for the petitioner.

Mr. Gagneshawar Walia, Advocate
for respondents No.1 and 2.

Mr. Ankush Dogra, Advocate for
Mr. M.K. Dogra, Advocate
for respondents No.3 to 5.

HARPREET SINGH BRAR, J. (Oral)

CM-17554-CWP-2025

1. The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 for placing on record written statement on behalf of respondents No.3 to 5.
2. In view of the grounds mentioned in the application, the same is allowed as prayed for, subject to all just exceptions. Written statement on behalf of respondents No.3 to 5 is order to be taken on record.
3. Registry is directed to place the same at the appropriate place.

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1. The present petition has been filed under Articles 226/227 of the



Constitution of India for issuance of writ in the nature of *certiorari* for quashing of impugned selection list dated 19.09.2024(Annexure P-15) vide which the petitioner has not been selected for the post of Assistant Engineer under the Backward Class (BC) category by respondent-PSPCL as well as selection of respondents No.3 to 5, who have been selected in spite of being lower in merit.

2. Learned counsel for the petitioner contends that the forefathers of the petitioner hail from the State of Bihar. The father of the petitioner came to the State of Punjab after marriage and settled in Ludhiana where the petitioner was born on 27.02.1998. The petitioner was also issued a Domicile Certificate dated 04.01.2024 (Annexure P-7). Moreover, the Tehsildar, Ludhiana Central also issued a BC Certificate dated 12.06.2017(Annexure P-8) to him as he belongs to the Barai community, which is recognised as a Backward Class in the State of Punjab under notification dated 09/23.12.1959. In fact, for the purpose of recruitment, after due reverification of documents, the petitioner also got a fresh Caste Certificate dated 16.09.2024 (Annexure P-9) issued by the concerned Tehsildar. The petitioner had also applied for Other Backward Class (OBC) certificate, which was issued to him on 01.01.2024 (Annexure P-10) as the Barai community is recognised as OBC under notification dated 10.09.1993 issued by the Government of India.

3. Thus, it is clear that the petitioner belongs to BC category under which he applied to the post of Assistant Engineer/OT (Electrical) in the discipline of Mechanical with respondent-PSPCL. He scored 33.67 marks in GATE while the cut-off for BC category was set at 25.70. The petitioner was not selected even though he stood fifth against the six available posts, ranking higher than the selected candidates- respondents No.3 to 5 who had scored 31.67, 31.00 and 30.67 respectively.



4. *Per contra*, learned counsel for respondents No.1 and 2 submits

that the petitioner is not eligible for consideration for recruitment under the BC category. The petitioner stood at serial no.20 in the combined merit list and serial no.6 with respect to BC category. Accordingly, he was called for document verification on 22.08.2024. The petitioner submitted a self-declaration stating that he has been a permanent resident of the State of Punjab since his birth in 1998 while his father had migrated from the State of Bihar in the year 1994. This declaration was also seen by a representative of District Welfare Department, Punjab. However, on the same day, he replaced this self-declaration with a new one wherein it was stated that his father has been a permanent resident since the year 1969 and his grandfather since the year 1948. The petitioner has also failed to prove the fact of him belonging to the BC category by relating it back to the State of Bihar and only current documents were produced. As such, it is not proved that the petitioner belongs to the Barai community and thereby a Backward Class. Moreover, as per instructions issued by means of letter dated 12.09.2023 by the office of Social Justice Empowerment and Minorities Department (Reservation Cell), Punjab, the persons belong to BC/OBC who have migrated from other states would not be entitled to benefits of reservation in the State of Punjab.

5. Learned counsel further submits that the relevant date for determining caste status for migrants/origin, the date of issuance of notification plays a crucial role. In case of persons born after the date of issue of the relevant notification, the place of residence for the purpose of acquiring BC status would be the permanent abode of their parents at the time of issuance of notification under which the community was categorised as BC. Further, in terms of the second declaration submitted by the petitioner, vide email dated



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02.09.2024, he was requested to submit his father's educational documents from primary to senior secondary education in Punjab along with proof of residence since the year 1969 as well as his grandfather's since the year 1948. In pursuance of the same, the petitioner only submitted a copy of their ration card (Annexure A-3) issued on 07.05.1979, renewed on 31.10.1999. Thus, for the lack of adequate documentary proof, the candidature of the petitioner was rejected after giving him an adequate opportunity of personal hearing on 29.10.2024, as indicated by the speaking order dated 09.12.2024 passed by Chief Engineer/HRD, PSPCL.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it has been emphatically argued that the forefathers of the petitioner hail from the State of Punjab. It has been the case of the petitioner that his grandfather moved to the State of Punjab in the year 1948 while his father has been a permanent resident there since the year 1969. Notably, clause 4.0(i) of the advertisement (Annexure P-1) reads as follows:

“4.0 RESERVATION

(i) The reservation of posts for reserved categories is applicable for candidates of Punjab Domicile only. Candidates are required to produce proof in this regard at the time of document checking.”

7. In ***Vinay Sahotra vs. The Punjab State Power Corporation Limited and others*** in CWP-20526-2025 decided on 01.10.2025, this Court dealt with a similar issue where a person with forefathers hailing from Una, Himachal Pradesh, which was a part of the erstwhile Punjab, claimed reservation under BC category in the State of Punjab. In that case as well, the caste of the petitioner was notified in both States- Punjab and Himachal Pradesh. Holding that the permanent abode of the father of the applicant has to



be seen at the time of issuance of the notification declaring a community to be covered by 'Backward Class,' the petitioner was denied benefit of reservation in Punjab as his father was found to be resident of Himachal Pradesh. The relevant part is reproduced below:

"12.2. Notifying a community as 'backward' would inherently be contingent on their history in a specific geographical area. Such determination is not made merely on the abstract idea of the identity of a community but honours its struggles by acknowledging the demonstrable evidence of disadvantage. It is not necessary that the same community faces identical hindrances all across the nation, as such, it would be unwise to understand this facet of the constitution as an attempt to provide blanket reservation. In fact, the very spirit behind the concept of affirmative action would be defeated if the same is done in a fashion that devoid of context and nuance.

*12.3. Inspiration can also be taken from the judgment passed by a Constitution Bench of the Hon'ble Supreme Court in **Bir Singh vs. Delhi Jal Board and others (2018) 10 SCC 312** wherein it was specifically held that the reservations made in lieu of Article 16(4) of the Constitution of India, shall be subject to the geographical limits of the State where a certain caste is notified in this context. Speaking through Justice Ranjan Gogoi, the following was opined:*

"2. In State of Uttaranchal v. Sandeep Kumar Singh and others, (2010) 12 SCC 794 [Civil Appeal No.4494 of 2006] the following question arose for consideration of this Court :

"Whether a person belonging to a Scheduled Caste in relation to a particular State would be entitled or not, to the benefits or concessions allowed to Scheduled Caste candidate in the matter of employment, in any other State?"

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*34. It is an unquestionable principle of interpretation that interrelated statutory as well as constitutional provisions have to be harmoniously construed and understood so as to avoid making any provision nugatory and redundant. If the list of Scheduled Castes/Scheduled Tribes in the Presidential Orders under Article 341/342 is subject to alteration only by laws made by Parliament, operation of the lists of Scheduled Castes and Scheduled Tribes beyond the classes or categories enumerated under the Presidential Order for a particular State/Union Territory by exercise of the enabling power vested by Article 16(4) would have the obvious effect of circumventing the specific constitutional provisions in Articles 341/342. In this regard, it must also be noted that the power under Article 16(4) is not only capable of being exercised by a legislative provision/enactment but also by an Executive Order issued under Article 166 of the Constitution. **It will, therefore, be in consonance with the constitutional scheme to understand the enabling provision under Article 16(4) to be***



available to provide reservation only to the classes or categories of Scheduled Castes/Scheduled Tribes enumerated in the Presidential orders for a particular State/Union Territory within the geographical area of that State and not beyond. If in the opinion of a State it is necessary to extend the benefit of reservation to a class/category of Scheduled Castes/ Scheduled Tribes beyond those specified in the Lists for that particular State, constitutional discipline would require the State to make its views in the matter prevail with the central authority so as to enable an appropriate parliamentary exercise to be made by an amendment of the Lists of Scheduled Castes/Scheduled Tribes for that particular State. Unilateral action by States on the touchstone of Article 16(4) of the Constitution could be a possible trigger point of constitutional anarchy and therefore must be held to be impermissible under the Constitution.

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61. Accordingly, we answer the question referred in terms of the views expressed in para 34 of this opinion. We further hold that so far as the National Capital Territory of Delhi is concerned the pan India Reservation Rule in force is in accord with the constitutional scheme relating to services under the Union and the States/Union Territories.”

13. The issue of portability of caste or community based reservations arises when domicile is confused with ethnicity. The state of origin of a person is not ascertained with respect the place of his birth but has to be defined in terms of permanent abode of his parents at the time of issuance of the relevant notification. The constitutional philosophy acknowledges that the idea of ‘backwardness’ is contextual and territorial. While an individual can migrate to another area, however, the socio-economic disadvantages faced by a community residing in a particular geographical area historically do not migrate with him. Thus, the benefits of reservation are permanently rooted in one’s ethnicity that denotes a shared culture and history. Allowing an approach where reservation is made portable across states would be violative of the principle of equitable distribution of resources as envisaged by the Constitution of India as it would amount to denial of benefits to those disadvantaged groups that they were originally intended for.”

The judgment passed in **Vinay Sahotra(supra)** was also upheld by a Division Bench of this Court in **LPA-3263-2025** titled ‘**Vinay Sahotra vs. The Punjab State Power Corporation Limited and others**’ decided on 14.11.2025, wherein speaking through Justice Deepak Manchanda, the following was observed:



7. *The Learned Single Judge relied upon various judgments of the Hon'ble Supreme Court and the notifications issued by the State to determine the eligibility of the appellant. The impugned judgment shows that the appellant had submitted a self-declaration stating that he has been a permanent resident of Punjab since his birth in 2000. Referring to the notification dated 03.09.1955 and the letter dated 25.11.2002 issued by the Ministry of Social Justice and Empowerment, the Learned Single Judge held that, for caste-based reservation, the place of permanent abode of the appellant's father at the time of the notification was decisive. It is noted that although the appellant's grandfather belonged to the erstwhile State of Punjab, his father resided in Himachal Pradesh after the reorganization of 1966. The father's migration to Punjab in 1999, therefore, does not alter the family's original state of origin.*

8. *A perusal of the impugned judgment further reveals that, as per the revenue record, the appellant's family owns ancestral property in Village Gondpur Banehra, which presently falls within District Una, Himachal Pradesh. This clearly establishes Himachal Pradesh as the appellant's state of origin. As rightly observed, the date of migration to another State is irrelevant for determining one's state of origin. **We agree that the connection between the family's geographical area of origin—Una—cannot be severed merely because of their subsequent relocation to Punjab in 1999. It is a settled proposition of law that the benefits of reservation do not travel with a migrant to the State where he chooses to settle, even if the same caste is notified in that State.***

(emphasis added)

8. Adverting to the facts of the matter at hand, the Barai community was recognised as a Backward Class in the State of Punjab vide notification dated 09/23.12.1959. As such, it is necessary to prove that the permanent abode of the father of the petitioner has been the State of Punjab in order to claim reservation here. The only document provided by the petitioner in this regard has been the ration card (Annexure A-3) which was originally issued on 07.05.1979. Further, by his own claim in the second declaration, his father has been a permanent resident of the State of Punjab since the year 1969, his alleged year of birth, while it was 1994 in the first self-declaration. However, he has claimed that his grandfather has been a permanent resident of the State of Punjab in the year 1948, but with nothing to buttress this claim. As such, the petitioner has failed to demonstrate that the State of Punjab was the permanent



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abode of his father in relation to notification dated 09/23.12.1959. Moreover, a perusal of Annexure A-5, which records details of the personal hearing opportunity granted to the petitioner on 29.10.2024, reveals that the petitioner does not have any record to show that his father or grandfather were residents of the State of Punjab before or on 09/23.12.1959 and neither does he have the Backward Class certificate of his father. In such a scenario, it becomes particularly arduous to conclude that the petitioner deserves to be considered eligible for reservation meant for the members of Backward Classes of the State of Punjab.

9. It must be recognised that granting such concession to the petitioner would amount to denying the same to a deserving candidate belonging to the BC category, in relation to the State of Punjab. Thus, this Court does not find it appropriate to intervene in the matter at hand. Accordingly, the present petition is dismissed.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

28.11.2025
P.Bhatt

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No