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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 24.02.2025

+ W.P.(C) 2218/2025, CM APPL. 10418/2025 & CM APPL. 10419/2025

DR SHRADDHA PAL

.....Petitioner

Through: Mr. Ashish Mohan, Sr. Advocate
with Mr. Saimon Farooqui,
Advocate with petitioner in person.

versus

JAWAHARLAL NEHRU UNIVERSITY & ORS.Respondents

Through: Mr. Vasanth Rajasekaran, Sr.
Standing Counsel, JNU & Mr.
Harshvardhan Korada, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL):

1. The petitioner is a candidate for appointment to the post of Associate Professor in Centre of Russian Studies [“CRS”], under the Other Backward Classes–Non-Creamy Layer [“OBC-NCL”] category, in the respondent-University, pursuant to an Advertisement bearing No. RC/71/2024 issued in March 2024.

2. By way of present petition, under Article 226 of the Constitution, the petitioner seeks cancellation of the candidature of a rival candidate bearing application No. bearing 2300060624 [hereinafter, “Dr. X”], on the contention that he was ineligible, due to his failure to submit a valid OBC-NCL certificate before the last date of submission of applications. Dr. X has not been impleaded in the present petition; the petitioner has stated that she does not know his name or contact details.



3. I have heard Mr. Ashish Mohan, learned Senior Counsel for the petitioner, and Mr. Vasanth Rajasekaran, learned Standing Counsel for the respondent-University.
4. The advertisement deals with recruitment for posts of Professors, Associate Professors and Assistant Professors in different Schools and Centres of the respondent-University. Various educational and experience qualification criteria are stipulated with regard to each post.
5. One of the advertised posts is that of Associate Professor, CRS, which is stated to be reserved for OBC candidates. The petitioner and Dr. X are both applicants for the said post.
6. The first list of provisionally shortlisted candidates was published on 11.10.2024. Dr. X was shortlisted for interview, but the petitioner was not, on the ground of inadequate research score. Pursuant to a provision in the published shortlist, the petitioner submitted a representation dated 15.10.2024 in this regard, which found favour with the University. A final shortlist was issued on 01.01.2025, in which the petitioner and Dr. X were the only two shortlisted candidates. The interview was scheduled for 07.01.2025.
7. The petitioner received an Interview Letter dated 01.01.2025, which stipulated various documents that were to be brought at the time of interview with self-attested copies for verification. The list of documents included the following:

“c) OBC-NCL Certificate as per Govt. of India format issued by the appropriate competent authority after 01.04.2023 along with the self attested copies (wherever applicable).”
8. Both the petitioner and Dr. X participated in the interviews. The



selection has not yet been made. However, the petitioner has approached this Court, stating that when Dr. X submitted his documents for verification prior to the interview, in her presence, he did not have a valid OBC-NCL certificate issued in terms of the advertisement and the Interview Letter. It is the petitioner's submission that Dr. X, who is already employed with the respondent-University as an Assistant Professor, has been considered despite his ineligibility. It may be mentioned that an application filed by the petitioner, under the Right to Information Act, 2005, was rejected on the ground that the information pertaining to the application and documents of Dr. X, is personal information. She has filed an appeal before the Central Information Commission, which remains pending.

9. In the interest of expeditious consideration of the matter, Mr. Rajasekaran, who appeared on advance notice when the matter was first taken up 20.02.2025, was requested to produce the original record before this Court, and the hearing was passed over to enable him to do so. Upon perusal of the record, the case has been heard finally, with the consent of learned counsel for the parties.

10. Turning to the provisions in the advertisement first, Mr. Mohan pointed out that the last date of submission of applications was 08.04.2024. The advertisement contained various "*General Instructions*". For the present purposes, the instructions cited by Mr. Mohan are as follows: -

"11. The Reservation to OBC candidates shall be applicable as per the directives of the Government of India amended from time to time. Candidates shall upload recent OBC caste certificates issued from a competent authority particularly with reference to non-creamy layer.



*The candidate who are not in the Central list of OBC shall not apply for the post(s) reserved for OBC and **if at any stage, it is found that the OBC certificate is not valid, the candidature shall stand cancelled and appointment made, if any, shall be terminated with immediate effect without any further notice.***

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*18. **The eligibility of the candidates will be determined on the basis of qualifications/ experience/publications etc. acquired by them upto the last date fixed for receipt of online applications. The crucial date for determining the eligibility on the basis of qualifications/experience/publications etc. shall be reckoned the last date of submission of online application.***

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*29. **The last date for submission of online applications completed in all respects, shall be 08th APRIL, 2024 upto 5:30 PM.***¹

11. Turning to the factual aspect next, the record reveals that, alongwith the online application submitted by Dr. X, he had uploaded an OBC-NCL certificate, issued by the Deputy Commissioner, South District, Delhi, dated 01.06.2012. On the date of interview, i.e. 07.01.2025, it was noticed that his OBC-NCL certificate was of the year 2012. The record contains a comment of the concerned officer, that the certificate issued in 2012, does not reflect the current position of the candidate's OBC-NCL status. It was confirmed that his caste was listed in OBC Central List. It was, thereafter, directed that the candidate may be provisionally allowed, subject to undertaking that he will provide the requisite certificate for the period (as per the advertisement/qualifying period) within one month, if selected. A declaration was taken from him, that he fulfils the eligibility of OBC-NCL category as on the date of closing of applications. He sought permission to appear in interview provisionally, and undertook to submit OBC-NCL certificate [issued on

¹ Emphasis supplied.



or after 01.04.2023] before the date of joining, if selected, failing which his candidature would be cancelled.

12. In fact, Dr. X has submitted the certificate in question dated 09.01.2025, issued by the Tehsildar, Defence Colony *vide* e-mail communication dated 10.01.2025, which has also been provisionally verified.

13. Factually, therefore, the assertion of the petitioner is borne out by the record – the OBC-NCL certificate submitted by Dr. X, alongwith his online application, and on the date of interview, was of the year 2012. A further certificate dated 09.01.2025 has been submitted by him only after the interview.

14. The main contention of Mr. Rajasekaran, however, is that the submission of caste certificate, including an OBC-NCL certificate, is not to be insisted upon at the time of application, but can be submitted any time until the appointment. He has handed over to the Court an Office Memorandum [“OM”] dated 29.03.2023, issued by Department of Personnel and Training [“DoPT”], which, *inter alia*, states as follows: -

“3.The instructions further provide that where a candidate belonging to a SC, ST and OBC is unable to produce a certificate from any of the prescribed authorities, he/ she may be appointed provisionally on the basis of whatever prima-facie proof he/she is able to produce in support of his/her claim subject to his/her furnishing the prescribed certificate within a reasonable time and if there is genuine difficulty in his/ her obtaining a certificate, the appointing authority should itself verify his/her claim through the District Authorities concerned.”²

15. Mr. Rajasekaran also relies upon the judgment of this Court in *Tej Pal Singh v. Govt. (NCT of Delhi)*³, which was followed in *Pushpa v.*

² Emphasis supplied.

³ 1999 SCC OnLine Del 1092 [hereinafter, “*Tej Pal Singh*”].



*Govt. (NCT of Delhi)*⁴. In *Tej Pal Singh*, the Court was concerned with recruitment in the Scheduled Caste category. The Court held that production of the caste certificate, even after the last date of submission of applications, did not render the candidate ineligible. It was noted that, in the advertisement in question, a cutoff date had been specified with regard to educational qualifications, professional experience, and age limit, but not for the purposes of furnishing Scheduled Caste/OBC certificates. The Court expressly rejected the contention that such an order would be iniquitous, as other similarly placed candidates may not have applied at all. In *Pushpa*, *Tej Pal Singh* was followed in the context of OBC reservations.

16. The view taken in these judgments was expressly approved by the Supreme Court in *Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board*⁵, wherein a contrary view had been taken by the Division Bench of this Court. The Supreme Court reversed the judgment of the Division Bench, with the following observations: -

*“14. The Division Bench of the High Court erred in not considering the decision rendered in Pushpa [Pushpa v. Govt. (NCT of Delhi), 2009 SCC OnLine Del 281] . **In that case, the learned Single Judge of the High Court had rightly held that the petitioners therein were entitled to submit the OBC certificate before the provisional selection list was published to claim the benefit of the reservation of OBC category.** The learned Single Judge correctly examined the entire situation not in a pedantic manner but **in the backdrop of the object of reservations made to the reserved categories**, and keeping in view the law laid down by a Constitution Bench of this Court in *Indra Sawhney v. Union of India* [*Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385] as well as *Valsamma Paul v. Cochin University* [*Valsamma Paul v. Cochin University*, (1996) 3 SCC 545 : 1996 SCC (L&S) 772 : (1996) 33 ATC 713] . The*

⁴ 2009 SCC OnLine Del 281 [hereinafter, “*Pushpa*”].

⁵ (2016) 4 SCC 754 [hereinafter, “*Ram Kumar Gijroya*”].



*learned Single Judge in Pushpa [Pushpa v. Govt. (NCT of Delhi), 2009 SCC OnLine Del 281] also considered another judgment of the Delhi High Court, in Tej Pal Singh [Tej Pal Singh v. Govt. (NCT of Delhi), 1999 SCC OnLine Del 1092 : ILR (2000) 1 Del 298] , wherein the **Delhi High Court had already taken the view that the candidature of those candidates who belonged to the SC and ST categories could not be rejected simply on account of the late submission of caste certificate.***

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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.”⁶

17. Although the judgment in *Ram Kumar Gijroya* has been referred to a larger Bench of the Supreme Court by a reference order dated 24.01.2020 in *Karan Singh Yadav v. GNCTD*⁷, the reference has not yet been answered, and the judgment in *Ram Kumar Gijroya* admittedly remains good law, as of today.⁸

18. Mr. Rajasekaran also draws my attention to the judgment of the Division Bench of this Court in *Sunil Pooja v. Staff Selection Commission*⁹. In *Sunil Pooja*, the Court was concerned with the last date/cut-off date for furnishing OBC-NCL certificate, in connection with recruitment to the post of Data Entry Operators by the Staff Selection Commission. The Division Bench cited the judgment in *Ram Kumar Gijroya* to uphold the belated submission of the certificate, with the following observations:

“22. In the present case, the only controversy, which is to be resolved is, whether a candidate belonging to any of the reserved categories, would become disentitled for consideration, in case the Certificate is submitted to the Authorities subsequent to the date of examination but before the selection process is completed.

23. This issue is no more *res integra*, established by judgments of this Court having been upheld by the Hon'ble Supreme Court. We would deal with the position of law after dealing with the facts which arose in the present case.

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33. Ordinarily, the certificates in respect of candidates belonging to the OBC category may have to be furnished along with the application depending upon the instructions mentioned in the

⁶ Emphasis supplied.

⁷ (2024) 2 SCC 716.

⁸ In *Rajnish Kumar Rai v. UOI*, [(2023) 14 SCC 782], paragraph 4, the Supreme Court has clarified that a judgment remains binding unless stayed, even upon reference to a larger Bench.

⁹ 2022 SCC OnLine Del 1654 [hereinafter, “*Sunil Pooja*”].



*Employment Notification. However, no straightjacket formula can be formulated for such submission and it appears that a delayed submission of such certificate shall not prove to be the cause for disentitlement from consideration of such candidate by the Authorities.*¹⁰

19. Mr. Mohan, on the other hand, relies upon a Full Bench decision of the Allahabad High Court in *Gaurav Sharma v. State of U.P.*¹¹, wherein *Tejpal Singh, Pushpa*, and *Ram Kumar Gijroya* have all been considered. In view of a conflict of Division Bench decisions, a Full Bench was constituted to decide the question as to whether the candidature of an OBC candidate was liable to be rejected on the ground of the caste certificate having been submitted after the last date for filing of applications. The Full Bench noticed that the recruitment advertisement prescribed a format for submission of a caste certificate, which should have been issued after 01.04.2015, but in any case not later than the last date for submission of the application form, i.e. 04.04.2016. Having regard specifically to the last date prescribed, the Court held that belated submissions of caste certificates, issued after the last date for submission of applications, was impermissible. The Court considered the judgments of this Court in *Tej Pal Singh* and *Pushpa*, and of the Supreme Court in *Ram Kumar Gijroya*, and held that the said judgments did not concern a negative stipulation in the advertisements, with regard to furnishing of the caste certificates. The Allahabad High Court therefore distinguished the view taken in these judgments, on the ground that the Court had not adverted to the last date for satisfaction of eligibility and submission of the documents.

¹⁰ Emphasis supplied.

¹¹ AIR 2017 Allahabad 116.



20. In the present case, this distinguishing feature, which weighed with the Allahabad High Court, does not arise. The present advertisement does not stipulate any range of dates between which the OBC-NCL certificate should be issued; it only refers to a “*recent*” certificate. It also does not expressly state the dates for submission of the OBC certificate, which was stipulated only at the time of shortlisting of candidates. The advertisement specifically refers to the Government of India directives, which, on the basis of OM dated 29.03.2023, permits such certificates to be submitted belatedly, until the appointment date.

21. Mr. Mohan’s reliance on instructions No. 18 and 29 also appear, in my view, to be unmerited. Instruction No. 18 refers specifically to eligibility on the basis of qualifications/experience/publications etc. For this purpose, the last date for applications has been stipulated as the date for assessment of eligibility. The provision does not refer to the certificates required to establish the reservation category, if any, in which the candidate falls. A similar stipulation appears in the shortlist, which was published on the website. I also do not read instruction No. 29 to go so far as to suggest that it stipulates a last date for submission of the OBC-NCL certificate, contrary to the general legal position that the certificate can be supplied later. The application cannot, in my view, be regarded as “*incomplete*” for want of a certificate which, in accordance with prevalent directives and judgments, can be submitted later. At the very least, such an intention would require candidates to be put on notice in express and unequivocal language.

22. The facts of the present case are, therefore, closer to the *Tej Pal Singh* and *Pushpa* line of decisions, expressly approved by the Supreme



Court in *Ram Kumar Gijroya*. The stipulation of a definite last date, for issuance and submission of the requisite caste certificate, was absent in those cases, and is absent in the present case also. In any event, the said judgments are binding upon this Court.

23. Mr. Mohan also sought to submit that, even in terms of this line of authority, the OBC-NCL certificate ought to have been required before the interview, citing the observation in *Pushpa*, which referred to submission prior to “*provisional selection*”. The shortlist for interview is, in my view, not tantamount to “*provisional selection*”, which will only take place after the interviews are conducted.

24. Mr. Mohan further draws my attention to a later OM dated 28.03.2024, issued by the DoPT, Ministry of Personnel, Public Grievances and Pensions, wherein the Ministry has consolidated the instructions on the question of reservation, concession/relaxation to reserved category candidates. Mr. Mohan relies upon the following extract, which refer to an OM dated 25.07.2003:

“The appointing authority before appointing a person seeking appointment on the basis of reservation to OBCs should verify the veracity of the community certificate submitted by the candidate and also the fact that he/she does not fall in creamy layer on the crucial date. The crucial date for this purpose may be treated as the closing date for receipt of applications for the post except in cases where crucial date is fixed otherwise.

(DoPT OM No. 36033/4/97-Estt (Res.) dated 25/07/2003).”

25. Quite apart from the fact that the specific provision, relied upon by Mr. Mohan, is from a circular of 2003, the provisions contained in the circular dated 29.03.2023, relied upon by Mr. Rajasekaran, have also been reiterated in the consolidated instructions. Paragraph 8 of Section 5 entitled “*Timely verification of caste certificates*” reads as follows:



“8. The instructions further provide that where a candidate belonging to a SC, ST and OBC is unable to produce a certificate from any of the prescribed authorities, he/she may be appointed provisionally on the basis of whatever prima-facie proof he/she is able to produce in support of his/her claim subject to his/her furnishing the prescribed certificate within a reasonable time and if there is genuine difficulty in his/her obtaining a certificate, the appointing authority should itself verify his/her claim through the District Authorities concerned.”

This section refers, *inter-alia*, to the very OM dated 29.03.2023 cited by Mr. Rajasekaran. The OM dated 28.03.2024 cannot, therefore, be read as a departure from the OM dated 29.03.2023.

26. Mr. Mohan’s last submission was that the respondent-University should not be permitted to take such a stand at this stage, as potential candidates similarly placed to Dr. X, may not have applied at all. However, this argument does not commend to me, as the identical argument was rejected in *Tej Pal Singh*¹².

27. For the aforesaid reasons, I am of the view that no fault can be found with the respondent-University for having permitted Dr. X to submit his recent OBC-NCL certificate belatedly. He has already done so, and it is for the selection committee to now choose the best candidate for the job.

28. Resultantly, I do not find any merit in the writ petition, which stands dismissed, alongwith the pending applications.

29. The original record has been returned to Mr. Rajasekaran.

PRATEEK JALAN, J

FEBRUARY 24, 2025//SS/AD/

¹² *Tej Pal Singh*, paragraph 28.