

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1668 of 2022

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Bablu Kumar Son of Arjun Mishtri Resident of Village- Maniyar Chak, P.S.-
Piri Bazar, Distict- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police.
2. The Additional Chief Secretary, Home Department, Govt. of Bihar.
3. The Bihar Staff Selection Commission, Post Veterinary College, Patna,
through its Secretary.
4. The Chairman, Bihar Staff Selection Commission, Veterinary College,
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Manish Kumar, GP-4
		Mr. Manoj Kumar, AC to GP-4
For the B.S.S.C	:	Mr. Jitendra Kumar Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 23-03-2026

Heard learned counsel for the parties.

2. The petitioner has filed the instant application for
the following relief (s) :-

*“1. (i) Issuance of a writ in the nature of writ
of mandamus commanding the respondents
to declare the result of the petitioner as pass
or having qualified on merit in the
recruitment of drivers on vacant post under
the State Govt vide Advt. no. 13010116 dated
22.06.2016 as wrongly the respondents have
excluded the name of the petitioner from the
list of successful candidates, treating him to*



be a general class candidate whereas the petitioner is a member of SC/ST category and denial of benefit of reservation despite having obtained 48 marks in the examination which is substantially higher than the cutoff marks of 41 marks on which other SC/ST candidates have been selected is discriminatory and violation Article 14 & 16 to the constitution of India.

(ii) Issuance of a writ again in the nature of writ of mandamus whereby and whereunder the respondents are issued a direction and commanded to revise the merit list in accordance with reservation policy and not to treat the petitioner as a general class candidate and extend to him the benefit of SC/ST category to which the petitioner belongs.

(iii) Issuance of any other writ/writs; order/orders to give/grant relief/reliefs to which the petitioner may be found entitled to in the facts and circumstances of the case.”

3. The case of the petitioner in brief is that on the respondent -Bihar Staff Selection Commission (hereinafter referred to as ‘the Commission’) coming out with Advertisement no.13010116 on 22.6.2016 for recruitment on the vacant post of Drivers under the State Government, the



petitioner who belongs to the Most Backward Class (MBC) category applied for the same. The respondent -Commission however treated the petitioner under the Unreserved category, the petitioner was not selected and as such the instant writ application for the prayer as stated herein above.

4. It is submitted by learned counsel appearing for the petitioner that the petitioner belongs to the caste of Lohar which was earlier under the MBC category. Referring to the caste certificate dated 16.8.2016, it is submitted that the caste Lohar was kept in Schedule-1 of MBC as also Schedule-2 of BC at serial no.115. Learned counsel submits that on perusal of the letter dated 5.9.2016 written by the Additional Secretary, General Administration Department, Government of Bihar, it would transpire that as on 8.8.2016, the caste Lohar had been placed under the Schedule Tribe (ST) category. As a result of the provisions mentioned therein, those categories of castes which were already under the ST category, their names were deleted from the Schedule-1 attached to the EBC/MBC category. Consequently, so far as the petitioner's caste of Lohar is concerned, this was also deleted from serial no.115 of Schedule-1 of the EBC category. Thereafter, the caste Lohar remains only under the Schedule



Tribe (ST) category.

5. Learned counsel for the petitioner submits that belonging to the Schedule Tribe category, at the time of counseling, the petitioner could not have produced the Non-Creamy Layer (NCL) certificate, which is only issued to the persons belonging to the MBC/EBC categories. As such it is submitted that the respondents be directed to treat the petitioner under the Schedule Tribe (ST) category, consider his application under the said category and publishing his result, to appoint him on the post to which he is entitled.

6. The application is opposed by learned counsel appearing for the respondent- Bihar Staff Selection Commission. It is submitted that from the application filled by the petitioner, a copy of which has been brought on record as Annexure-2 to the writ application, the petitioner belonging to the MBC category, as required by the instructions mentioned in the advertisement, he was required to produce the Non-Creamy Layer (NCL) certificate at the time of counseling. Not having done so, the petitioner was considered under the Unreserved category and not having succeeded on merit, he was not selected.

7. Heard learned counsel for the parties and perused



the material on record.

8. On perusal of the contents of writ application, it transpires that the respondent-Commission came out with advertisement for filling up the posts of Driver in the Government of Bihar vide advertisement contained in Annexure-1. The applications were to be filled up between 23.6.2016 and 22.7.2016. It is not in dispute that the petitioner filled up his application before the cut-off date and stated his category to be MBC (Most Backward Class). Though subsequently, so far as the caste of the petitioner i.e., Lohar is concerned, the same was removed from the list as contained in Schedule-I of the MBC/EBC and it remained only under the ST category, however there is no dispute with respect to the fact that this was only with effect from 8.8.2016 i.e., much after the last date of filling up of application in the instant case which was 22.7.2016.

9. In view of the aforesaid facts, what is also not in dispute is that the petitioner having applied under the MBC category had to be considered by the respondent- Commission under the said category.

10. On perusal of the terms of the advertisement as contained in Annexure-1, it transpires that the persons



belonging to the MBC/EBC categories had to produce a Non-Creamy Layer (NCL) certificate issued by the competent authority within one year at the time of counseling. Admittedly, the petitioner did not produce the said certificate. This resulted in the respondent- Commission considering the application of the petitioner in the Unreserved/General category and consequent to which the petitioner was not finally selected.

11. In view of the facts and circumstances stated herein above, the Court finds no error in the action of the respondent- Commission and no merit in the instant writ application.

12. The application is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.03.2026
Transmission Date	

