

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1832 of 2022

Jaya Jagriti D/o Sri Jai Prakash Chaurasia, W/o Shri Chandan Kumar, resident of Village - Rampur P.O. and P.S. Jamalpur, District - Munger. 811214, at present resident of Q.No. D.1/15. Radio Colony Kings way Camp, G.T.B. Nagar West Delhi. 110009.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Bihar, Patna.
2. The Bihar Public Service Commission, Patna through its Chairman, Bihar, Patna.
3. The Chairman, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg (Bailey Road) Patna Bihar- 800001.
4. The Secretary, Bihar Public Service Commission, Bihar Patna, 15, Jawahar Lal Nehru Marg (Bailey Road) Patna . 800001.
5. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abdul Manan Khan, Advocate Mr. Binay Kumar, Advocate
For the Respondent/s	:	Mr. Rajni Kant Jha, Advocate Mr. Manish Kumar, GP 4

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 10.03.2026 1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application for the following relief:

“(i) For issuance of a writ of certiorari or any other appropriate writ order or direction for quashing the result of Bihar Public Service Commission in respect of Assistant Director (Agricultural Service Class-I), published by the Bihar Public Service Commission on 24.12.2021



in which the petitioner has been put in general category and has been declared fail.

Photo copy of the result sheet is annexed and marked as Annexure-1 to this writ application.

(ii) For issuance of appropriate writ, order or direction commanding the respondents authority to modify/rectify the result in question by declared the petitioner as successful candidate in the Backward Mahila category and accordingly she may be appointed in the Agriculture Class 1st Service.

(iii) For issuance of a writ of mandamus or any or direction other appropriate writ order, restraining the respondents authorities from filling up the vacancy on the post of Agriculture Services Class-I on the basis of erroneous result published by the Bihar Public Service Commission.

(iv) For any other relief/reliefs for which the petitioner is found to be entitled under the provision of law involved in the present case.

3. The case of the petitioner in brief is that on the respondent Bihar Public Service Commission ('BPSC' in short) coming out with Advertisement no. 86 of 2014, the petitioner having requisite qualification applied for appointment on Agricultural Service Class-1 post in the Backward Mahila



category.

4. Learned counsel for the petitioner referring to the caste certificate of the petitioner brought on record as Annexure-3 to the writ application submits that it is not in dispute that the petitioner belongs to *Barai* caste which was under the Backward Class category. The petitioner submitted the caste certificate in original on the date of the interview, however, was surprised that the petitioner was considered in the General Category and the petitioner was not selected. Referring to the order of the BPSC brought on record as Annexure-1 to the writ application, it was submitted that though the petitioner had produced the caste certificate, the petitioner did not produce the certificate to the effect that she did not belong to the creamy layer ie she did not produce the Non-Creamy Layer Certificate. Learned counsel for the petitioner in reference to the statement made in paragraph no. 14 of the counter affidavit submits that the respondents have admitted therein that at the time of interview the petitioner submitted the Non-Creamy Layer Certificate for verification, wherein the category was mentioned as EBC and thus the petitioner was considered in the unreserved category.

5. Learned counsel for the petitioner relies on the order dated 15.3.2018 passed by this Court in CWJC no. 5191 of 2017



(Anant Kumar Sharma vs. State of Bihar) as also the order dated 24.7.2019 passed in LPA no. 851 of 2018 (Anant Kumar Sharma vs. State of Bihar). In reference to the said two orders, it is submitted that the caste to which the petitioner belongs ie *Barai* caste was earlier in the BC category. However, vide Notification dated 22.4.2015 of the respondents, the same was included in the EBC Category. It is thus submitted that taking into consideration the fact that on the last date of filing of application, the caste of the petitioner was in the BC category and not the EBC category, the decision of the Bihar Public Service Commission therein to treat the petitioner therein in the BC category, as decided by learned Single Judge was upheld in the appeal.

6. It is thus submitted by learned counsel for the petitioner that similarly, the petitioner herein should also be treated in the BC category and the respondents be directed to take out the result of the selection as against Advertisement no. 86 of 2014, treating the petitioner to be under the BC category, make suitable recommendation and the respondents be directed to appoint the petitioner on Agricultural Class- I service.

7. The application is opposed by learned counsel for the respondent.



8. It is submitted by learned counsel for the respondent BPSC that the petitioner had filled up her application against Advertisement no. 86 of 2014 showing herself to be belonging to the BC category. The Commission conducted the written examination on 3.4.2018 and 4.4.2018. On a combined merit list having been prepared on the basis of the marks obtained in the written examination, the petitioner was called for interview. It is submitted that in the interview, though the petitioner produced her Non-Creamy Layer Certificate, against the petitioner having filled up her application under the BC category, the Non-Creamy Layer Certificate submitted by the petitioner showed her belonging to the EBC category. It was as a result of this indiscrepancy that the application of the petitioner was considered under the Un-Reserved category and she was finally not selected. It is submitted that sound reasons have been given in the order brought on record as Annexure-1 to the writ application. There is no merit in the instant application and the same be dismissed.

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

10. The relevant facts not in dispute are that the respondent BPSC having come out with Advertisement no. 86



of 2014 for appointment of Agricultural Service Class 1 post, the petitioner who belongs to the *Barai* caste which was under the BC category at the relevant time, submitted her application for being considered in the BC category.

11. It may be observed here that from the contents of the order dated 15.3.2018 passed in CWJC no. 5191 of 2017, it would transpire that *Barai* caste was included in the list of EBC Category vide notification dated 22.4.2015. It is for this reason that on being called for interview in the year 2021, the Non-Creamy Layer Certificate produced by the petitioner though showing her to be belonging to the *Barai* caste under which she had also filed her application, now showed her belonging to the EBC category in view of the subsequent change in the category of the caste as a result of the above mentioned notification.

12. In the opinion of the Court, the respondent BPSC committed an error in not treating the petitioner under the BC category under which category the *Barai* caste fell till the last date of application for Advertisement no. 86 of 2014.

13. At this stage, it would be relevant to reproduce the relevant portion of the order dated 24.7.2019 passed in LPA no. 581 of 2018 wherein the Court hearing the appeal was considering the contents of the resolution dated 22.4.2015



whereby the *Barai* caste was moved by the respondents from BC category to the EBC category.

“We have perused the documents and we find that the resolution of the Government dated 22nd April, 2015 categorically recites that the said resolution will take effect immediately (यह आदेश तुरंत प्रभावी होगा). This recital, therefore, clearly makes the said declaration prospective and it cannot be applied retrospectively. Admittedly, the appellant on the last date for filling up of the application form belonged to the backward category and not to the extremely backward category.”

14. In view of the facts and circumstances stated herein above, there being no dispute with respect to the fact that the last date of application in the instant Advertisement no. 86 of 2014 being 22.12.2014, the petitioner belonging to the *Barai* caste which was under the BC category in the said period and the resolution dated 22.4.2015 moving *Barai* caste from BC category to EBC category having come after the last date of filing of application in the instant advertisement, the respondents BPSC should have considered the case of the petitioner in the BC category and not in the Un-Reserved category.

15. Accordingly, the writ application is allowed with a



direction to the Bihar Public Service Commission to consider the application of the petitioner in the BC category and accordingly, taking into consideration the same to publish the result of the petitioner against her application in Advertisement no. 86 of 2014 within a period of 3 months from the date of receipt/production of a copy of this order.

16. The writ application stands allowed.

(Partha Sarthy, J)

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