

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5264 of 2022

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Singh Sanju Kumri Gaya Wife of Rajiva Kumar Resident of Village -
Tilsandi, P.O. - Bhimpur, P.S. - Barharia, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Director, State Education Research and Training Council, Mahendru, Patna.
4. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Satyabir Bharti, Senior Advocate Mr. Prince Kumar Mishra, Advocate Ms. Priyanka Kumari, Advocate
For the State	:	Mr. A.C. to G.P.20
For the B.P.S.C.	:	Mr. Kameshwar Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
CAV JUDGMENT

Date : 15-05-2026

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs:

“For issuance of a writ in the nature of Certiorari, quashing the decision of Bihar Public Service Commission (hereinafter referred as “BPSC or Commission”) dated 28/02/2022 – to the extent it relates to Petitioner—whereby and whereunder, it has been stated that the result of Petitioner for Common Group has been published treating her candidature as unreserved category as she could not produce her Backward Class Non-Creamy Layer certificate containing name of her father at the time of



interview rather she produced Backward Class Non-Creamy Layer certificate containing name of her husband and since she did not have requisite marks to be called for interview as unreserved Category Candidates, her candidature has been cancelled.

(ii) For issuance of a writ in the nature of *Mandamus* directing and commanding upon the respondent authorities to publish the result of petitioner of Interview held on 13/12/2021 for the remaining seat of Common Group under Backward Class Category, for Advertisement No.06/2016 issued by the Bihar Public Service Commission – held for recruitment of Lecturers in State Government Training Colleges, Bihar

(iii) For issuance of writ in the nature of mandamus directing and commanding upon the respondent BPSC and the State Respondents to accept the Backward Class Non-Creamy layer Certificate of Petitioner and include her name in successful candidates for the subject of Common Group in the original result dated 28/02/2022 and appoint her on the post of Lecturer in Government Training Colleges in terms of the Advertisement No. 06/2016.

(iv) To any other relief or relief which the petitioner may be found entitled to in the facts and circumstances of the case;

(v) Cost of litigation.”

3. The brief facts, giving rise to the present writ petition, are that the Bihar Public Service Commission (hereinafter referred to as ‘B.P.S.C.’) came out with an advertisement bearing Advertisement No.06/2016 on



14.05.2016 for appointment to the post of 530 Lecturers in the Government Training Colleges, Government of Bihar on the basis of the limited competitive examination. Clause 3(a)(ii) of the aforesaid advertisement spells out the eligibility conditions wherein it has been prescribed that teachers working in the government schools, who have completed three years are eligible to apply. The petitioner being eligible, submitted her duly completed application within the stipulated time and was issued admit card for appearing in the examination, which was to be held on 27.08.2018. The petitioner appeared in the said examination and thereafter on 15.11.2021 the results of the written examination was published, in which she was declared successful. Interview letter was issued to the petitioner to appear in the interview on 13.12.2021. Thereafter on 28.02.2022, the final result was published by the B.P.S.C., in which the petitioner was declared to be not successful. The petitioner was shown to be successful in unreserved category, since at the relevant time she could not produce her backward class non-creamy layer certificate, containing the name of her father, rather she produced backward class non-creamy layer certificate, containing the name of her husband and since she did not had the requisite marks to be called for interview as



unreserved candidate, her candidature has been cancelled. It is the case of the petitioner that at the time of interview on 13.12.2021, she produced the backward class non-creamy layer certificate, containing the name of her husband as well as her caste certificate and thereafter she was allowed to appear in the interview. It is further case of the petitioner that she was not aware about the requirement of having backward class non-creamy layer certificate, containing the name of her father for interview, therefore, she could not produce the same at the time of interview. For the first time, she came to know about the same at the time of interview, when she was asked to produce the backward class non-creamy layer certificate, containing the name of her father. Thereafter the petitioner obtained the said certificate from the block office and submitted the same on 12.03.2022, with a request to the B.P.S.C., to consider the same.

SUBMISSIONS ON BEHALF OF THE PETITIONER

4. The learned Senior Counsel for the petitioner submits that the action of the B.P.S.C. in treating the candidature of the petitioner, as unreserved category candidate, due to non-production of the backward class non-creamy layer certificate, containing the name of her father at the time of interview is illegal, arbitrary and fit to be set aside. He further submits that



the action of the B.P.S.C. in treating the candidature of the petitioner as unreserved category candidate in the final result dated 28.02.2022 and not considering the backward class non-creamy layer certificate, containing the name of her husband at the time of interview is also without jurisdiction. The learned Senior Counsel for the petitioner submits that the Respondent-B.P.S.C. was required to treat the candidature of the petitioner as backward class candidate on the basis of non-creamy layer certificate, submitted by the petitioner at the time of interview, which contained the name of her husband, as there is no change of caste, due to marriage of the petitioner. He further submits that the action of the B.P.S.C. in not accepting the caste certificate/non-creamy layer certificate of the petitioner is in complete violation of the provisions contained in Articles 14, 16, 19(1)(g) and 21 of the Constitution of India. He further submits that the petitioner produced her non-creamy layer certificate in original for verification, which bears the name of her husband, however she was asked to write on 'Prapatra-I', that she is not producing her non-creamy layer certificate, as the certificate did not contain the name of her father. The petitioner having no opportunity at the time of interview, but to write the same, in order to appear for the interview.



5. The learned Senior Counsel for the petitioner further submits that the petitioner being a married lady and her marriage being solemnized long back, is bound to have all such documents in the name of her husband and therefore, there was no requirement for her to obtain non-creamy layer certificate, containing the name of her father. He further submits that the rejection of the petitioner's candidature is solely on a procedural technicality, that non-creamy layer certificate produced at the time of interview contained the name of her husband instead of her father and such a ground is wholly insignificant and cannot be permitted to defeat the substantive rights of the petitioner in a matter of public employment. He further submits that from perusal of the advertisement, particularly Clause-7, it would transpire that there is no stipulation requiring a female candidate to produce the non-creamy layer certificate/caste certificate exclusively in the name of her father. The only requirement prescribed therein is that the certificate must be issued from the candidate's permanent place of residence. In case of the petitioner since she was a married lady, her permanent resident is her matrimonial home and the same is within the State of Bihar. She submitted the application form in terms of the advertisement along with all the requisite certificates.



6. The learned Senior Counsel further submits that it is well settled that caste is determined by birth and does not undergo any change upon marriage. The mere mention of the husband's name in the certificate does not in any manner alter or dilute the petitioner's caste identity and the insistence of the B.P.S.C. to a certificate containing her father's name is at best can be said to be a procedural requirement, which cannot override the petitioner's substantive entitlement to reservation. He further submits that the petitioner had substantially complied with all the requirements by producing valid caste certificate and non-creamy layer certificate at the time of interview and was thereafter permitted to participate in the selection process. Therefore, having allowed the petitioner to undergo the entire process, it is not permissible for the respondents to reject the candidature of the petitioner at the time of final publication of the result, on technical issues. As soon as the petitioner came to know about the said technicality, she promptly obtained the certificate and submitted the same before the competent authorities of the B.P.S.C. The learned Senior Counsel for the petitioner submits that even though the said certificate was produced before declaration of the result, but the same was not considered, without any explanation or cogent reason, which



amounts to discrimination and arbitrariness on the part of the respondent-B.P.S.C. The petitioner having cleared the written examination and appeared for interview, had a legitimate expectation of fair and reasonable consideration of her candidature. The post facto rejection of her candidature on a trivial procedural ground is contrary to the principles of natural justice and fairness. The benefit of reservation, which is a constitutional guarantee, cannot be denied on inconsequential technicalities, thereby defeating the very object of the reservation policy meant for advancement of backward classes.

7. The learned Senior Counsel for the petitioner refers to and relies upon a judgment of the Hon'ble Supreme Court of India, reported in **(2022) 14 SCC 35 (Aarav Jain v. The Bihar State Public Service Commission & Ors.)**, wherein in paragraph-6(v) and 12 to 15, it has been held as follows:

“6. With respect to these 8 candidates named above, the following shortcomings/deficiencies were noticed by the Commission in its meeting dated 27.11.2019:

- i.
- ii.
- iii.
- iv.

v. Anita Kumar although had applied under the category of SC (female) but she submitted the caste certificate issued in the year 2002 which



contained the name of her husband, at the time of the interview, however, later on she sent the caste certificate mentioning the name of her father also on 13.11.2019 (her name finds place at Sr. No. 29 in the list of decision dated 27.11.2019).

12. Another submission advanced on the behalf of the appellants is that the requirement to submit the originals is neither related to qualification or eligibility and in any case before appointment or during the course of probation a verification and vigilance report is always obtained by the State. Therefore, non-furnishing of the original certificate at the time of interview cannot be held to be mandatory or in other words nothing turned upon it. Even if the original certificates/documents were not submitted at the time of interview, the government would still be getting a vigilance/verification check carried out.

13. Upon such submissions, it has been submitted that the decision of the Commission rejecting their candidature was per se illegal, unwarranted, unreasonable and too harsh. All the eight appellants who were duly qualified and duly selected have been deprived of their appointment as Judicial Officers. Admittedly, all the Appellants had secured more marks than the last selected candidate in their respective category. It is further submitted that even the High Court committed an error in dismissing their petitions.

14. On the other hand, it has been submitted on behalf of the BPSC and the State that they could not relax any of the condition which were mentioned in the advertisement or their brochure or the interview call letter at different stages. Any such relaxation would amount to not following their own



prescribed procedure which was not within their domain. It is also submitted that appellants knowing fully well the condition regarding submission of the original Certificates/Documents at the time of interview having failed to do so, their candidature was rightly rejected.

15. Considering the facts and circumstances of the case, without entering into the respective argument we are of the considered view that the rejection of the candidates was improper, unjustified and not warranted. We have also taken note of the fact that there are vacancies available, which if filled up by meritorious candidates would only be an asset for the institution helping in disposal of cases pending in huge numbers.”

8. The learned Senior Counsel for the petitioner further refers to and relies upon a judgment of the Hon’ble Supreme Court of India, reported in **2023 SCC OnLine SC 1212 (Sweety Kumari v. State of Bihar & Ors.)**, wherein on relying on the judgment in the case of **Aarav Jain** (supra), the Hon’ble Supreme Court of India in paragraph nos. 17 to 19 has held as follows:

“17. In the case of *Aarav Jain* (supra), this Court has not accepted the plea taken by BPSC that production of original certificate was mandatory because the candidates possessed such certificates on the date of submission of the application form. This Court was of the opinion that once such a condition is not mandatory, then non-production of original copies at the time of interview would not be sufficient to reject the candidature of a



candidate who was placed in the merit.

18. The view taken by this Court is fortified by the analogy drawn in the case of *Charles K. Skaria v. Dr. C. Mathew*, (1980) 2 SCC 752 whereby Justice Krishna Iyer speaking for the Court held that the factum of eligibility is different from factum of proof thereof. This Court held that if a person possesses eligibility before the date of actual selection, he cannot be denied benefit because its proof is produced later.

19. In the present case, the proof is available and true photocopies were on record. The appellants' candidature could not have been rejected merely because the original was not produced before the Commission at the time of interview in particular when such requirement was not mandatory, in view of the manner in which the Rules are couched."

9. The learned Senior Counsel for the petitioner further refers to and relies upon a judgment of the Hon'ble Supreme Court of India, reported in **(2016) 4 SCC 754 (Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Anr.)**, wherein in paragraph nos.2 and 13 to 18, it has held as follows:

"2. The important question of law to be decided in these appeals is whether a candidate who appears in an examination under the OBC category and submits the certificate after the last date mentioned in the advertisement is eligible for selection to the post under the OBC category or not?

13. After hearing both the parties at length and perusing the impugned judgment and



order passed by the Division Bench of the High Court, we are of the view that the Division Bench erred in setting aside the judgment and order passed by the learned Single Judge. We record our reasons hereunder.

14. The Division Bench of the High Court erred in not considering the decision rendered in Pushpa. 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* as well as *Valsamma Paul v. Cochin University*. The learned Single Judge in Pushpa also considered another judgment of the Delhi High Court, in Tej Pal Singh, 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.

15. The relevant paragraph from the judgment of this Court in *Indra Sawhney* has been extracted in *Pushpa* along with the speech delivered by Dr Ambedkar in the Constituent Assembly and reads thus: (*Pushpa case*, SCC OnLine Del para 9)

“9. ... ‘251. Referring to the concept of equality of opportunity in public employment, as embodied in Article 10 of the Draft Constitution, which finally



emerged as Article 16 of the Constitution, and the conflicting claims of various communities for representation in public administration, Dr Ambedkar emphatically declared that reservation should be confined to “a minority of seats”, lest the very concept of equality should be destroyed. In view of its great importance, the full text of his speech delivered in the Constituent Assembly on the point is appended to this judgment. But I shall now read a few passages from it. Dr Ambedkar stated:

“... firstly, that there shall be equality of opportunity, secondly, that there shall be reservations in favour of certain communities which have not so far had a ‘proper look-in’ so to say into the administration. ... Supposing, for instance, we were to concede in full the demand of those communities who have not been so far employed in the public services to the fullest extent, what would really happen is, we shall be completely destroying the first proposition upon which we are all agreed, namely, that there shall be an equality of opportunity. ... Therefore the seats to be reserved, if the reservation is to be consistent with sub-clause (1) of Article 10, -‘*must be confined to a minority of seats*’-. It is then only that the first principle could find its place in the Constitution and effective in operation. ... we have to safeguard two things, namely, the principle of equality of opportunity and at the same time satisfy the demand of communities which have not had



so far representation in the State ...”
[*Constituent Assembly Debates*, Vol. 7, pp. 701-02 (1948-1949).]

These words embody the *raison d’etre* of reservation and its limitations. Reservation is one of the measures adopted by the Constitution to remedy the continuing evil effects of prior inequities stemming from discriminatory practices against various classes of people which have resulted in their social, educational and economic backwardness. Reservation is meant to be addressed to the present social, educational and economic backwardness caused by purposeful societal discrimination. To attack the continuing ill effects and perpetuation of such injustice, the Constitution permits and empowers the State to adopt corrective devices even when they have discriminatory and exclusionary effects. Any such measure, insofar as one group is preferred to the exclusion of another, must necessarily be narrowly tailored to the achievement of the fundamental constitutional goal. “(*Indra Sawhney* case, SCC pp 433-34, para 251)”

16. In *Pushpa*, relevant paragraphs from *Tej Pal Singh* have also been extracted, which read thus: (*Pushpa case*, SCC OnLine Del Para 11)

“11. ... ‘15. The matter can be looked into from another angle also. As per the advertisement dated 11-6-1999 issued by the Board, vacancies are reserved for various categories including SC category. Thus in order to be considered for the post reserved for SC category, the requirement is



that a person should belong to SC category. If a person is SC he is so by birth and not by acquisition of this category because of any other event happening at a later stage. A certificate issued by competent authority to this effect is only an affirmation of fact which is already in existence. The purpose of such certificate is to enable the authorities to believe in the assertion of the candidate that he belongs to SC category and act thereon by giving the benefit to such candidate for his belonging to SC category. It is not that petitioners did not belong to SC category prior to 30-6-1998 or that acquired the status of being SC only on the date of issuance of the certificate. In view of this position, necessitating upon a certificate dated prior to 30-6-1998 would be clearly arbitrary and it has no rationale objective sought to be achieved.

16. While taking a particular view in such matters one has to keep in mind the objectives behind the post of SC and ST categories as per constitutional mandate prescribed in Articles 15(4) and 16(4) which are enabling provisions authorising the Government to make special provisions for the persons of SC and ST categories. Articles 14(4) and 16(4), therefore, intend to remove social and economic inequality to make equal opportunities available in reality. Social and economic justice is a right enshrined for protection of society. The right in social and economic justice envisaged in the Preamble and elongated in the



fundamental rights and directive principles of the Constitution, in particular Articles 14, 15, 16, 21, 38, 39 and 46 are to make the quality of the life of the poor, disadvantaged and disabled citizens of the society meaningful.’ (*Tej Pal Singh case*, SCC OnLine Del Paras 15-16)”

17. Further, in *Pushpa*, relevant portion from the judgment of *Valsamma Paul case* has also been extracted, which reads as under: (*Pushpa case*, SCC OnLine Del Para 11)

“11. ... ‘17. ... “21. The Constitution through its Preamble, fundamental rights and directive principles created a secular State based on the principle of equality and non-discrimination, striking a balance between the rights of the individuals and the duty and commitment of the State to establish an egalitarian social order.” (*Valsamma Paul case*, SCC pp. 560-61, para 21)’ (*Tej Pal Singh case*, SCC OnLine Del Para 17)”

18. In our considered view, the decision rendered in *Pushpa* 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* and *Valsamma Paul* 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 complete 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 and Valsamma Paul. Therefore, the impugned judgment and order 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) is hereby restored.”

10. The learned Senior Counsel for the petitioner further refers to and relies upon a judgment of the Hon’ble Supreme Court of India, reported in **(2017) 11 SCC 276 (Dheerender Singh Paliwal v. Union Public Service Commission)**, wherein in paragraph nos.14 to 16, the Hon’ble Supreme Court of India has held as follows:

“14. Having considered the



respective submissions and having noted the dictum of this Court as noted above, we are of the view that in the light of the prescription noted in the advertisement, the particulars furnished by the appellant in response to the said advertisement and the production of the degree certificate for having secured the Bsc degree with Zoology as the subject at a later point of time there was substantial compliance with the requirement to be fulfilled in the matter of the essential qualifications possessed by the appellant. Therefore, applying the principle set down by this Court, the respondent Commission ought to have considered the application and more so when the appellant was already in the services of the Forensic Science Laboratory as Senior Scientific Assistant and his essential qualifications were very much on record in the form of resume and therefore pursuant to the direction of the Tribunal when the respondent Commission interviewed the appellant and found him fit to be selected and appointed for the post of Senior Scientific Officer in all fairness should have appointed the appellant.

15. In the first place, it must be stated that it is not a case of the appellant not possessing the required essential qualifications but was of only not enclosing the certificate in proof of the added qualification of Zoology as one of the subjects at Bsc level, from a recognised University. In the application when once the appellant, marked '1' against Column 9 and thereby confirmed that he possesses the essential qualification, namely, the postgraduate qualification as well as the degree level qualification, if at all there was any doubt about any of the qualification, the appellant should have been called upon to produce the required certificate in



proof of such essential qualification. In fact in this context, when we refer to the interview proceedings of the appellant as well as two other candidates we find that the appellant produced the original Bsc/Msc degree in Zoology and also submitted the attested photocopy of Bsc Zoology degree. The outcome of the said interview was that the appellant should be cleared of his selection. Insofar as other two candidates, namely, Miss Babyto and Miss Imrana, are concerned, we find that the production of their caste certificate was not in the prescribed pro forma initially, nevertheless those candidates were allowed to produce the original caste certificate issued by the competent authority and after verifying the same by accepting the attested photocopies of such caste certificates, their cases were cleared. Therefore, when such a course was adopted by the respondent Commission in regard to those two candidates there is no reason why the candidature of the appellant alone was kept in suspension, though he also cleared interview process. Even assuming such clearance was not made awaiting the outcome of the order of the Tribunal, when the Tribunal upheld his selection and directed the respondent to issue necessary orders for appointment, in all fairness the respondent Commission should have issued the order of appointment. We are of the view that such an approach of the respondent Commission was unfair having regard to the very trivial issue, namely, a non-production of an added qualification as part of the essential qualification at the degree level which the appellant did possess and for mere asking, the appellant could have readily produced the same through his employer.

16. We are therefore convinced that



the interference with the order of the Tribunal by the Division Bench was uncalled for and accordingly while setting aside the impugned judgment of the Division Bench of the High Court, the order of the Tribunal dated 9-12-2009 stands restored. The appeal is allowed. The appellant shall be appointed as Senior Scientific Officer as directed in the aforesaid order and shall be granted all the benefits including restoration of the seniority as on the date of the appointment of any of his juniors in the said position pursuant to the selection made in the Advertisement dated 28-2-2009 to 6-3-2009. However, applying the principle of not having actually performed the duties of the Senior Scientific Officer, we hold that such conferment of benefits shall be made on notional basis without any monetary liability. Above directions shall be carried out within two weeks from the date of production of the copies of this order.”

11. The learned Senior Counsel for the petitioner further refers to and relies upon a judgment of the Hon’ble Supreme Court of India, reported in **(2025) 2 SCC 1 (Tej Prakash Pathak v. High Court of Rajasthan)**, wherein in paragraph nos.15, 16, 23, 24 and 52, it has been held as follows:

“15. Cut-off date with reference to which eligibility has to be determined is the date appointed by the relevant service rules; where no such cut-off date is provided in the rules, then it will be the date appointed in the advertisement inviting applications; and if there is no such date appointed, then eligibility criteria shall be applied by reference to the last date appointed by which the applications



were to be received.

16. The law is settled that after commencement of the recruitment process the eligibility criteria is not to be altered because candidates even if eligible under the altered criteria might not apply by the last date under the belief that they are not eligible as per the advertised criteria. Such alteration/change, therefore, deprives a person of the guarantee of equal opportunity in matters of public employment provided by Article 16 of the Constitution. The reference order therefore acknowledges this legal position and in clear terms accepts that “the rules of the game” cannot be changed after commencement of the recruitment process insofar as the eligibility criteria is concerned.

23. The doctrine proscribing change of rules midway through the game, or after the game is played, is predicated on the rule against arbitrariness enshrined in Article 14 of the Constitution. Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words Article 14 is the genus while Article 16 is a species. Article 16 gives effect to the concept of equality in all matters relating to public employment. These two articles strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles alike to all similarly situate and not to be guided by any extraneous or irrelevant considerations. In all its actions, the State is bound to act fairly, in a transparent manner. This is an elementary requirement of the guarantee against arbitrary State action which Article 14 of the Constitution adopts. A



deprivation of the entitlement of private citizens and private business must be proportional to a requirement grounded in public interest.

24. The principle of fairness in action requires that public authorities be held accountable for their representations. Good administration requires public authorities to act in a predictable manner and honour the promises made or practices established unless there is good reason not to do so.

52. Thus, in our view, the appointing authority/recruiting authority/ competent authority, in absence of rules to the contrary, can devise a procedure for selection of a candidate suitable to the post and while doing so it may also set benchmarks for different stages of the recruitment process including written examination and interview. However, if any such benchmark is set, the same should be stipulated before the commencement of the recruitment process. But if the extant Rules or the advertisement inviting applications empower the competent authority to set benchmarks at different stages of the recruitment process, then such benchmarks may be set any time before that stage is reached so that neither the candidate nor the evaluator/examiner/interviewer is taken by surprise.”

SUBMISSIONS ON BEHALF OF RESPONDENT-BPSC

12. *Per Contra*, the learned counsel appearing on behalf of the B.P.S.C. submits that the petitioner never submitted any non-creamy layer certificate, either in the name of her husband or in the name of her father, during the entire process of selection. In fact the petitioner did not attach a single



certificate with her application form. This fact is clear from the averment made on behalf of the B.P.S.C. in paragraph no.8 of the supplementary counter affidavit dated 07.03.2025 and the same has not been denied by the petitioner by filing reply to the same. He further submits that even from perusal of the application form submitted by the petitioner, pursuant to the advertisement, which has been annexed as Annexure-D to the counter affidavit of the B.P.S.C., it would transpire that in the declaration column, there is a space for mentioning enclosures with the application form and in case of the petitioner, the same is totally blank. This clarifies that the petitioner did not enclose the non-creamy layer certificate, even in the name of her husband, which she claims to have produced at the time of interview and with the application form. He further submits that the petitioner had filed her writ petition only on the said ground. The petitioner was called for interview on 13.12.2021 at 02:30 p.m. and from perusal of the interview letter, it would transpire that in Clause 2(v), it was categorically mentioned that the candidate claiming backward/extremely backward class reservation, has to produce non-creamy layer certificate. Particularly, the female candidates were required to produce the non-creamy layer certificate in the name and address of their



father.

13. The learned counsel appearing on behalf of the B.P.S.C. submits that the check list submitted by the writ petitioner at the time of interview on 13.12.2021, which is on record, suggests that at the time of interview, she submitted other documents and certificates, but in Clause V and VI of the check list, she had categorically mentioned that she has not produced the non-creamy layer certificate at the time of interview. He submits that some dates are important for proper adjudication of the present writ petition, which are as follows:

(i)	13.12.2021	The date of interview (she never submitted NCLC in interview)
(ii)	28.2.2022	Final Selection list (result) of the candidates was published by the commission.
(iii)	2.2.2022	Non Creamy layer certificate was issued in the name of father of the petitioner by the competent authority (Annex-P/7 of the writ petition)
(iv)	12.3.2022	The petitioner submitted non-creamy layer certificate to the commission (Para-17 of the writ petition)

14. On the basis of the chart, he submits that the non-creamy layer certificate was issued on 02.02.2022, i.e., after completion of the interview on 13.12.2021 and the same was sent to the B.P.S.C. on 12.03.2022, which is after publication of the final result dated 28.02.2022. He submits that the



petitioner's written examination was cancelled due to non-production of the required non-creamy layer certificate, however her application was provisionally admitted, subject to production of the entire original certificate, including the non-creamy layer certificate, at the time of interview for its verification. The petitioner was called for interview in anticipation, assuming her candidature as a BC (F) category candidate, but due to non-submission of the non-creamy layer certificate, she was considered in the category of unreserved (F) candidate. It was found that she had secured 25 marks in the written examination, whereas the cut off marks for her category, i.e., Unreserved (F) category was 33 marks. Therefore, the result of the petitioner was cancelled by the Commission vide its resolution dated 24.02.2022. He submits that the petitioner never submitted non-creamy layer certificate, in the name of her father, during the selection process and the statement of the petitioner to the effect that she produced non-creamy layer certificate in the name of her husband at the time of interview and later on in the name of her father are entirely false. In paragraph no.17 of the writ petition it has been stated that she submitted the non-creamy layer certificate in the name of her father on 12.03.2022, whereas the final result of the selected



candidates was published on 28.02.2022 and the panel of the successful candidates was sent to the Education Department for taking appropriate action. The writ petition was heard on 02.04.2026 and during course of the argument, the learned Senior Counsel for the petitioner submitted that the B.P.S.C. has changed the terms of the advertisement in the midst of selection process, since according to him in Clause 7(B)(C) of the advertisement, it was only mentioned that “राज्य सरकार द्वारा अधिसूचित अंचलाधिकारी द्वारा निर्गत क्रीमीलेयर रहित प्रमाण पत्र, जाति प्रमाण पत्र एवं स्थायी निवास प्रमाण पत्र उपर्युक्त आरक्षण संबंधित प्रमाण पत्र साक्षात्कार के समय मूल रूप प्रस्तुत नहीं करने पर आरक्षण का लाभ देय नहीं होगा।” , which is impermissible. Since in the entire pleading, said prayer has not been made by the petitioner and the same is beyond the pleading made in the writ petition, which cannot be permitted and arguments, beyond pleading are not fit to be accepted by the writ court.

15. The learned counsel for the B.P.S.C. submits that so far the issue of non-creamy layer certificate in the name of the father is concerned, the law is very much settled. The Hon’ble Supreme Court of India in **Civil Appeal No.6445/2000 (Anjan Kumar v. Union of India)** by referring to the circular issued by the Departmental of Personnel and Administrative Reforms, Government of Bihar, vide Memo No.3025, dated



11.09.2007, has clarified that caste of persons shall be determined upon the caste of his/her father. Since the Central reservation policy was adopted by the State of Bihar to provide benefit of reservation of the permanent resident of the State of Bihar, therefore the State Government through its circular issued by the Departmental of Personnel and Administrative Reforms, from time to time, has clarified that the caste certificate, income certificate and non-creamy layer certificate must be issued in the name of the father of the candidate, by the Revenue Officer of the concerned village/block as well as the Revenue Officer of the district. Therefore, in such circumstances, it is not correct to say that the petitioner was not aware about the rule with regard to issuance of caste certificate in the name of father. The learned counsel for the B.P.S.C. by referring to and relying on a judgment dated 29.01.2020, passed in **C.W.J.C. No.23248 of 2019 (Kumari Pushpanjali Bala vs. The State of Bihar & Ors.)** and order dated 05.03.2020, passed in **C.W.J.C. No.3083 of 2019 (Sarwesh Kumar @ Sarvesh Kumar vs. The State of Bihar & Ors.)**, submits that the learned Co-ordinate Benches of this Court, after considering all the aspects proceeded to dismiss the writ petition filed by the writ petitioners. The learned counsel for the B.P.S.C. further submits that the Hon'ble



Division Benches as well as a Full Bench of this Hon'ble Court has affirmed the stand/decision of the Commission, while dealing with similar issues vide judgment reported in **2011 (2) PLJR 585 (Vandana Govindam Vs. State of Bihar & Ors.), 2011 (4) PLJR 185 (Tar Babu Yadav Vs. State of Bihar & Ors.), 2012 (1) PLJR 397 (Harish Chandra Patel Vs. State of Bihar & Ors.), 2017 (1) PLJR 786 (Dr. Santosh Kumar Vs. State of Bihar & Ors.)** and **1998 (3) PLJR 34 (FB) (Braj Kishore Prasad Vs. State of Bihar & Ors.)**

FINDINGS

16. Having heard the learned counsel for the parties and after going through the records, this Court finds that pursuant to Advertisement No.06/2016, the petitioner submitted her application and appeared in the written examination. She also appeared in the interview, which was held on 13.12.2021, however in the final result her name did not find figure. It appears that the petitioner was kept under general category, since at the time of interview, she did not produce the non-creamy layer certificate, containing the name of her father, rather she produced the non-creamy layer certificate, which contained the name of her husband. From the documents on record, which has been annexed with the counter affidavit filed



on behalf of the B.P.S.C., it appears that along with the application form, the petitioner did not submit the non-creamy layer certificate, either in the name of her father or in the name of her husband. She even did not produce the non-creamy layer certificate issued in the name of her father, at the time of interview and she is said to have obtained the non-creamy layer certificate in the name of her father, by the competent authority on 02.02.2022. She went to submit the non-creamy layer certificate issued in the name of her father before the Commission on 12.03.2022, although the final selection list/result of the candidates was already published by the Commission on 28.02.2022. Therefore, on the date of interview, i.e., 13.12.2021, the petitioner did not possess the non-creamy layer certificate, issued in the name of her father and even along with her application form she did not annex the non-creamy layer certificate, issued in the name of her husband. This fact has not been denied by the petitioner in her entire pleading. From perusal of the application form, it would transpire that in the space provided for giving details of the enclosures, with the application form, the same is kept blank. It further transpires that as per the circular of the Department of Personnel and Administrative Reforms, Government of Bihar dated



11.09.2007, it was clarified that the caste of the persons shall be determined upon the caste of his/her father and the State Government from time to time has clarified that the caste certificate, income certificate and non-creamy layer certificate must be issued in the name of the father of the candidate by the Revenue Officer of the concerned block/village as well as at the district level. Therefore, it cannot be said that the B.P.S.C. did not intimate the candidates to submit the non-creamy layer certificate, issued in the name of the father and it was not known to the petitioner. So far the judgments relied upon by the petitioner are concerned, in those cases the certificates/documents were produced by the candidates before their respective appointment/interview and the documents were annexed with the application form, only originals were not produced at the time of interview. The same was produced before publication of provisional list. In the present case the non-creamy layer certificate, issued in the name of the husband of the petitioner or even a single document was not annexed with the application form. In absence thereof, it cannot be said that the petitioner had annexed the caste certificate/non-creamy layer certificate, issued in the name of her husband at the time of filling up the application form and went in the interview



along with the said certificate. When the certificate was not annexed with the application form, there was no question of consideration of her candidature in reserved category and the candidature of the petitioner was rightly considered under unreserved category. The non-creamy layer certificate obtained by the petitioner in the name of her father was after publication of the final merit list/select list therefore, there was no question of the same being considered by the B.P.S.C.

17. From the considerations made above, this Court is of the considered opinion that the petitioner has not made out a case for interference by this Court and therefore the writ petition filed by the petitioner is fit to be dismissed and accordingly, the same is dismissed. No order as to costs.

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

(Ritesh Kumar, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	02.04.2026
Uploading Date	15.05.2026
Transmission Date	NA

