

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Anjana Kumari**

**vs**

**The State of Bihar & Ors.**

Civil Writ Jurisdiction Case No.6203 of 2020

06 May 2025

**(Hon'ble Mr. Justice Purnendu Singh)**

**Issue for Consideration**

Whether the Respondent Commission correctly rejected the candidature of Petitioner under BC (05) and BCL (06) category and placed her under Unreserved (General) Category on account of her failure to submit Non-Creamy Layer Certificate of previous financial year?

**Headnotes**

Selection & Appointment---Creamy Layer Certificate of Women Candidate claiming Reservation---writ petition to quash order dated 27.02.2020 issued under the signature of the Joint Secretary-cum-Examination Controller, B.P.S.C., whereby and whereunder Petitioner's result of the written test and her candidature for appointment as Lecturer in the Govt. Training Colleges have been cancelled on the ground that at the time of interview, she did not submit her caste certificate/ creamy layer certificate and because of that she was put in the General Category and that she did not obtain the cut-off marks as fixed for the general category candidates.

**Held:** petitioner attached Non-Creamy Layer certificate of year 2013 along with the application form---rejection of the petitioner is on the ground that the petitioner had not produced the required certificate in terms of Clause 12 of Bihar Government's resolution dated 08.03.2011 which says that the income tax certificate in respect of the father of the candidates, who are claiming their candidature to be considered in

BC and BCL as in the case of the petitioner, who is a lady candidate, must be of previous Financial Year and it is valid for only one year---even considering the fact that the father of the petitioner had died in the year 2015, the provision of Clauses 11 and 12 of the Resolution of the State Government dated 08.03.2011 provides for income tax certificate of the mother in case the father is not alive---it is well settled principle of law that the women candidate carries her caste of her father---petitioner herself is responsible for non-furnishing of required documents at the time of submission of application form and at the time of interview---writ dismissed. **(Para 7-14)**

#### **Case Law Cited**

*Dr. Santosh Kumar Vs. State of Bihar & Ors.*, 2017 (1) PLJR 786 .....Relied Upon.

#### **List of Acts**

Constitution of India

#### **List of Keywords**

Selection and Appointment---Non-Creamy Layer Certificate of a Women Candidate---Terms of Advertisement---Rejection of Candidature---Backward Caste Reservation--- Non-Furnishing of required Documents.

#### **Case Arising From**

Order dated 27.02.2020 issued under the signature of the Joint Secretary-cum-Examination Controller, B.P.S.C.

#### **Appearances for Parties**

For the Petitioner/s: Mr. Sanjay Kumar, Advocate

For the State: Mrs. Binita Singh, Sc-28

For the B.P.S.C.: Mr. Sanjay Pandey, Advocate; Mr. Nishant Kumar Jha, Advocate; Mr. Ayush Kumar, Advocate

Headnotes Prepared by Reporter: Ghanshyam, Advocate

#### **Judgment/Order of the Patna High Court**

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6203 of 2020

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Anjana Kumari Wife of Sanjay Poddar daughter of late Gaurishankar Poddar,  
resident of Muhalla Sant Path, Bachaspati Nagar, Police Station- Bahadurpur,  
Patna-800006

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna
2. The Principal Secretary, Department of Education, Bihar, Patna
3. The Director, Higher Education, Bihar, Patna
4. Bihar Public Service Commission, through its Chairman, 15 Jawaharlal Nehru Marg, Patna
5. The Chairman, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna
6. Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Patna

... .. Respondent/s

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**Appearance :**

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mrs. Binita Singh, Sc-28
For the B.P.S.C.	:	Mr. Sanjay Pandey, Advocate
		Mr. Nishant Kumar Jha, Advocate
		Mr. Ayush Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL JUDGMENT**

**Date : 06-05-2025**

Heard Mr. Sanjay Kumar, learned counsel  
appearing on behalf of the petitioner; Mrs. Binita Singh, learned  
SC-28 for the State and Mr. Sanjay Pandey, learned counsel  
along with Mr. Nishant Kumar Jha and Mr. Ayush Kumar,  
learned counsel for the Bihar Public Service Commission.



2. The petitioner in paragraph no. 1 of the present writ petition has sought *inter alia* following relief(s), which is reproduced hereinafter:

*"1. That this is an application for issuance of a writ in the nature of certiorari to quash the order dated 27.02.2020 issued under the signature of the Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Bihar, Patna, (for short 'B.P.S.C.'), to the extent it relates to the petitioner; whereby and whereunder the result of the written test and her candidature for appointment as Lecturer in the Govt. Training Colleges against the advertisement bearing no. 02/2016 dated 03.05.2016 have been cancelled on the ground that at the time of interview, she did not get certification of her caste certificate/ creamy layer certificate/ disability certificate and because of that she was put in the General Category (01) and that she did not obtain the cut-off marks as fixed for the general category candidates and further prays for issuance of a consequential writ or any other appropriate writ, writs order or directions to appoint the petitioner on the said post with all consequential benefits and further prays for issuance of such other order/direction for which the petitioner may be found legally entitled to in the facts and circumstances stated hereinafter."*

**BRIEF FACTS:**

3. Brief facts of the case are that the petitioner having requisite qualification had applied for being appointed as Lecturer in Government Training College pursuant to the Advertisement No. 02/2016 dated 03.05.2016. Selection process took place and the result was published but the same was cancelled at the time of interview due to interference of this Court vide order dated 22.03.2021 passed in CWJC No. 15081



of 2018 (Ravi Kumar & Ors. vs. the State of Bihar & Ors.) and other analogous cases, against which, the State and Bihar Public Service Commission (hereinafter referred to as the "Commission") had preferred L.P.A. No. 384 of 2021 in which the Division Bench of this Court had set aside the order of the learned Single Judge dated 22.03.2021 passed in CWJC No. 15081 of 2018. The petitioner is aggrieved that she had applied under BC (05) and BCL (06) category for the post of lecturer in Common Group and Hindi Group subjects respectively and was allotted roll no. 204169. The petitioner appeared and passed written examination and was called for interview. The interview was held between 09.12.2019 to 04.01.2020 in the premises of the Commission. The petitioner was called for interview on 12.12.2019 and 04.01.2020 under the Common Ground and Hindi Group subjects respectively. A combined merit list was prepared on the basis of marks obtained in written examination and interview by the candidates and selection was made as per the merit list. Final result was published on 27.02.2020. Recommendation of successful candidates was sent to the Department concerned by the Commission vide Letter No. 05 dated 08.05.2020. The facts reveal that the petitioner had submitted Non-Creamy Layer certificate relating to her



deceased father issued in the year 2013 and her candidature under BC (05) and BCL (06) category was rejected on the ground that the required document was not submitted before the last date of submission of application form i.e. 08.06.2016. The petitioner is aggrieved by the said action. Though, her candidature was considered under Unreserved (General) Category (01). The petitioner secured 48 marks, which was less than the cut-off marks of Unreserved Category (01) 52 marks and Unreserved (Female) 51 marks in written examination in Common Group Subject and the result of the written examination of the petitioner was cancelled for Common Group Subject. For Hindi Group Subject, cut-off marks of Unreserved Category (01) was 51 marks and Unreserved (Female) was 47 marks and thus, the petitioner was considered in Hindi Group in Unreserved (Female) category. The petitioner had finally secured 62.753 marks, which was less than the cut-off marks 70.080 of the Unreserved (Female) Category and the petitioner was not declared successful.

**SUBMISSION ON BEHALF OF THE PETITIONER:**

4. Learned counsel appearing on behalf of the petitioner submitted that the question, which falls for consideration in the present writ petition is, as to whether, the



Non-Creamy Layer Certificate, which was submitted by the petitioner along with the application form before the last date i.e. 08.06.2016 issued in the year 2013 in light of the provision contained in Clause 8 of the resolution of the State Government dated 8<sup>th</sup> March, 2011, which provides that the Non-Creamy Layer Certificate can be issued only once and in support of the same, learned counsel has referred to paragraphs no. 14, 15 and 16 of the counter affidavit filed on behalf of the respondents no. 4 to 6 and submitted that the rejection of the petitioner is on the ground that Non-Creamy Layer Certificate issued in the name of the father of the petitioner contained the address of her husband. The petitioner proceeded to explain that since the petitioner got married, the Non-Creamy Layer Certificate was issued showing address of her husband but the same will not invalidate the certificate, which gives the correct figure of income of her father. Learned counsel further submitted that since the father of the petitioner had died on 09.06.2015, there was no question of producing a fresh Non-Creamy Layer Certificate and this fact has not been considered at the time, the petitioner was asked to fill up the check-list giving the details and the original copy of the certificate. Considering the admitted position that Non-Creamy Layer Certificate was under the circumstances her



father had died in the year 2015, she could not produce Non-Creamy Layer Certificate of previous year and correctly, she had filled up in column no. 6 of the required check-list, which she had filled up on 04.01.2020. Learned counsel further submitted that consideration of the candidature of the petitioner under Unreserved (General) Category is against the provision of Resolution of the State Government dated 8<sup>th</sup> March, 2011, particularly, Clause 8 of the said resolution, which mandate that only once Non-Creamy Layer Certificate can be issued. On these grounds, learned counsel submitted that the rejection of the petitioner is on the ground that she could obtain the cut-off marks under the Unreserved (General) category and non consideration under Reserved Category is an arbitrary action of the respondent/s, who have discriminated the petitioner.

**SUBMISSION ON BEHALF OF THE RESPONDENT:**

5. *Per contra*, Mr. Sanjay Pandey, learned counsel for the Commission submitted that it is admitted by the petitioner that the certificate of year 2013 was attached along with the application form and the said certificate was also furnished at the time of furnishing of the original testimonials. In terms of Sub-Clause (ii) and Sub-Clause (iii) of Clause 12 of the Resolution of the State Government dated 08.03.2011, the





income certificate validity is only for one year and it should be of previous Financial Year. The case of the petitioner cannot be considered on the basis of invalid certificate and her claim under BC (05) and BCL (06) Category was rejected, which led her candidature to be considered along with the Unreserved (General) Category candidates. The petitioner secured 48 marks, which was less than the cut-off marks of Unreserved Category (01) 52 marks and Unreserved (Female) 51 marks in written examination in Common Group Subject and the result of the written examination of the petitioner was cancelled for Common Group Subject. For Hindi Group Subject, cut-off marks of Unreserved Category (01) was 51 marks and Unreserved (Female) was 47 marks and thus, the petitioner was considered in Hindi Group in Unreserved (Female) category. The petitioner had finally secured 62.753 marks, which was less than the cut-off marks 70.080 of the Unreserved (Female) Category and the petitioner was declared unsuccessful.

**ANALYSIS & CONCLUSION:**

6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties, as well as, having perused the pleadings made in the writ petition, counter affidavit, supplementary



counter affidavit and reply to the same, before I proceed to consider the facts of the present case, I find it proper to reproduce the provision of Resolution of the State Government dated 08.03.2011, which was applicable at the relevant point of time when the Advertisement No. 02/2016 dated 03.05.2016 was issued pursuant to which the petitioner had applied for being appointed as lecturer in Government Training College in Common Group and Hindi Group subjects. In view of the rejection of the petitioner under BC (05) and BCL (06) Category, Clause 8 of the said resolution is reproduced hereinafter:

"ओबीसी (क्रीमीलेयर रहित) प्रमाणपत्र बार-बार निर्गत नहीं किये जायेंगे। पूर्व निर्गत क्रीमीलेयर रहित प्रमाणपत्र के साथ भारत सरकार, कार्मिक, लोक शिकायत एवं पेंशन मंत्रालय (कार्मिक एवं प्रशिक्षण विभाग) नई दिल्ली के कार्यालय ज्ञापांक संख्या-36033/4/97-स्था0(आरक्षण) दिनांक 25.07.03, जिसे सामान्य प्रशासन विभाग के परिपत्र संख्या-11/वि05-09/1998-1074 दिनांक 06.07.2005 द्वारा परिचारित किया गया है, के आलोक में क्रीमीलेयर में नहीं होने संबंधी शपथपत्र फॉर्म-XVIII में आवेदक/आवेदिका द्वारा दिया जायेगा, जो मान्य होगा।"

8. From the bare reading of Clause 8 it appears that the Non-Creamy Layer Certificate can be issued only once.

9. Clause 11 of the Resolution of the State Government dated 08.03.2011 is reproduced hereinafter:

"आय प्रमाणपत्र के साक्ष्य हेतु निम्नांकित अभिलेख समुचित माने जायेंगे:-  
(10.1) वेतन/पेंशन पर्ची।



(10.2) आयकर रिटर्न।  
(10.3) अन्यान्य अभिलेख। "

10. Clause 12 of the Resolution of the State Government dated 08.03.2011 is reproduced hereinafter:

"प्रमाणपत्रों की वैधता:-

i. जाति प्रमाणपत्र:- सामान्यतया जाति प्रमाणपत्र की वैधता की कोई सीमा नहीं होगी।

ii. आय प्रमाणपत्र:- आय प्रमाणपत्र हेतु आय का आकलन गत वित्तीय वर्ष के आय के आधार पर होगा, जो निर्गत होने की तिथि से अगले एक वर्ष की अवधि तक वैध रहेगा।

iii. आवास प्रमाणपत्र:- (क) सामान्यतया अस्थायी आवास प्रमाणपत्र की मान्यता निर्गत होने की तिथि से अधिकतम एक वर्ष तक होगी

(ख) स्थायी आवास प्रमाणपत्र की वैधता की कोई सीमा नहीं होगी। "

11. The rejection of the petitioner is on the ground that the petitioner had not produced the required certificate in terms of Clause 12 of the aforesaid resolution of the State Government. I find that the provisions, which are contained in resolution dated 08.03.2011 has mandate of Articles 166 and 309 of the Constitution of India and in that view, I find that the requirement provided in Sub-Clause (ii) of Clause 12 of the aforesaid resolution that the income tax certificate in respect of the father of the candidates, who are claiming their candidature to be considered in BC (05) and BCL (06) as in the case of the present petitioner, who is a lady candidate, must be of previous Financial Year and it is valid for only one years.

12. Clause 7 of the Advertisement No. 02/2016 dated



03.05.2016 contains terms and conditions for reservation. Clauses 9 and 10 of the advertisement provides for last date of submission of application along with required documents. I find that on the last date or before the date of interview, for which the date was announced also contains certain terms and conditions, which facilitate the selection process and it cannot be said that the same had impeded, in any manner, the selection process or the same has changed the '*Rule of Game*' in any manner. In view of invalid certificate, the candidature of the petitioner could only have been considered under Unreserved (General) Category and in this regard, I find it apt to reproduce the information contained in paragraph no. 17 of the counter affidavit filed on behalf of the respondents no. 4 to 6, which *inter alia* is as follows:

*"17. That it is stated and submitted that with regard to the aforesaid certificate submitted and declaration made by the petitioner; the Commission in its meeting held on 09.02.2020 did not accept the non-creamy layer certificate issued in the name of her father but with the address of her husband. Therefore, in case of non-submission of the required certificate the petitioner was considered in unreserved category (01). The petitioner secured 48 marks which is less than the cut-off marks of unreserved category (01)- 52 marks and unreserved (female)- 51 marks in written examination in common group subject and thus, the result of the written examination of the petitioner was cancelled for common ground subject. For Hindi group subject, cut-off marks of unreserved category (01) was 51 marks and unreserved (female) was 47 marks. Thus, the petitioner was only considered in Hindi group in unreserved (female). The petitioner*



*had finally secured 62.753 marks which is lesser than the cut-off marks 70.080 of the unreserved (female) category and so, the petitioner was not declared successful."*

13. The law in respect of furnishing of the Creamy Layer Certificate has been dealt by the Division Bench of this Court in ***LPA No. 737 of 2016 (Dr. Santosh Kumar Vs. State of Bihar & Ors.)*** reported in ***2017 (1) PLJR 786*** and same has been affirmed by the Apex Court vide order dated 13.12.2022 passed in ***SLA (C) No. 6934 of 2017*** and in view of the law laid down by the Apex Court, I hold that the petitioner herself is responsible for non-furnishing of required documents at the time of submission of application form and at the time of interview.

14. Even considering the fact that the father of the petitioner had died in the year 2015, the provision of Clauses 11 and 12 of the Resolution of the State Government dated 08.03.2021 provides for income tax certificate of the mother in case the father is not alive. The petitioner had failed to do so and I don't find to interfere in any manner, insofar as, the action of the Commission is concerned. It is well settled principle of law that the women candidate carries her caste of her father. The writ petition fails for the reasons which I have recorded hereinabove.

15. Accordingly, the present writ petition stands



dismissed.

16. There shall be no order as to cost.

**(Purnendu Singh, J)**

Niraj/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	08.05.2025
Transmission Date	N/A

