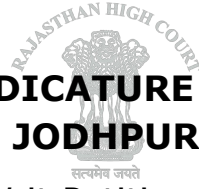




**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**



(1) S.B. Civil Writ Petition No. 6603/2015

Gaurav Sharma S/o Shri Gouri Shankar Sharma, aged about 24 years, R/o Sawo Ka Bass, Pokran, District Jaisalmer, Rajasthan.

-----Petitioner

Versus

1. State of Rajasthan through the Secretary, Education Department, Government of Rajasthan, Secretariat, Jaipur.
2. Director, Secondary Education, Education Department, Bikaner, Rajasthan.
3. Deputy Director (Secondary Education), Jodhpur Division, Jodhpur, Rajasthan.
4. Rajasthan Public Service Commission, Ajmer through its Secretary.
5. Secretary, Rajasthan Public Service Commission, Ajmer.

-----Respondents

Connected With

(2) S.B. Civil Writ Petition No. 6852/2015

Manish Parashar S/o Shri Vijay Kumar aged about 33 years R/o Kapasan, Tehsil Kapasan District Chittorgarh, Rajasthan.

-----Petitioner

Versus

1. State of Rajasthan through the Secretary, Education Department, Government of Rajasthan, Secretariat, Jaipur.
2. Director, Secondary Education, Education Department, Bikaner, Rajasthan.
3. Rajasthan Public Service Commission, Ajmer through its Secretary.
4. Secretary, Rajasthan Public Service Commission, Ajmer.

-----Respondents

(3) S.B. Civil Writ Petition No. 6851/2015

Khalid Mohammad Sheikh S/o Shri Sardar Mohammad Sheikh aged about 33 years R/o Ward No. 18, Sipaiyo Ka Mohalla, Inside Maru Gate, Devgarh, District Rajsamand, Rajasthan

-----Petitioner

Versus

1. State of Rajasthan through the Secretary, Education





- Department, Government of Rajasthan, Secretariat, Jaipur.
2. Director, Secondary Education, Education Department, Bikaner, Rajasthan.
  3. Rajasthan Public Service Commission, Ajmer through its Secretary.
  4. Secretary, Rajasthan Public Service Commission, Ajmer.

-----Respondents

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For Petitioner(s) : Mr. Manvendra Singh with  
Mr. Anita Rajpurohit  
Mr. Tanwar Singh Rathore

For Respondent(s) : Mr. Sarwan Kumar for Mr. Hemant  
Choudhary  
Mr. Priyank Keweliya for Mr. Mahesh  
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**JUSTICE DINESH MEHTA**

**Order**

**29/08/2023**

1. All these writ petitions involve common question of facts and law, for which they are being disposed of by this common order. However, for the sake of convenience, the facts of S.B. Civil Writ Petition No. 6603/2015 (Gaurav Sharma vs. State of Rajasthan & Ors.) are being taken into consideration.
2. The respondents invited applications for the post of PTI Grade – II and III vide recruitment notification dated 18.09.2013. The petitioner submitted his application form as General category candidate and an admit card came to be issued for the examination which were held on 21.02.2015, in which he was shown as General category candidate.
3. In the meantime, on 18.09.2013 by way of notification issued by the State Government, petitioner's caste (Pujari Sevak) came to be included in the list of Other Backward Classes (OBC).



4. The written examination was held 21.02.2015 and cut off was declared on 14.06.2015.

5. Before the result could be declared, the petitioner moved a representation before the Secretary, Rajasthan Public Service Commission (hereinafter referred to as "the Commission") and requested that his candidature be considered as an OBC category candidate while enclosing his caste certificate of OBC (Non-Creamy Layer).

6. The petitioner's candidature was not considered as an OBC candidate, for which, the present writ petition has been filed.

7. Mr. Manvendra Singh, learned counsel for the petitioner argued that on the date of Advertisement itself (18.09.2013), the petitioner's caste came to be included in the castes notified as Other Backward Classes and, therefore, the petitioner's candidature ought to have been considered as an OBC candidate.

8. He argued that when the application form was submitted, the petitioner could not obtain a certificate of OBC (Non-Creamy Layer) and hence, he had to apply as General category candidate for want of requisite OBC (Non-Creamy Layer) certificate. But since, before the result was declared, the petitioner had secured requisite certificate and had requested the respondents to consider his candidature as OBC (Non-Creamy Layer) category candidate, the respondents were under an obligation to consider petitioner's case as OBC (Non-Creamy Layer) category candidate.

9. Mr. Sarwan Kumar, learned counsel for the respondents, on the other hand, submitted that not only the petitioners had furnished their application form but also appeared in the written examinations as General category candidates and simply because



their caste came to be included in the list of OBC, they cannot claim consideration of their candidature as OBC (Non-Creamy Layer) category candidates, particularly when their caste certificates showing them to be of OBC category candidates came to be issued on 17.03.2015, after the written examinations were held.

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

11. Indisputably, the petitioners submitted their application forms as General category candidates because by such time, they did not have certificate of OBC (Non-Creamy Layer). It is to be noted that even till written examinations were held (21.02.2015), the petitioners were not possessing OBC (Non-Creamy Layer) certificates. The petitioners came into action only on 03.06.2015 and moved the Secretary of Rajasthan Public Service Commission by way of representation that their candidature be considered as OBC category candidates.

12. In the opinion of this Court, the eligibility or candidature of a candidate has to be seen on the date of submitting the application form. Admittedly, when the petitioners submitted their application forms, rather until the last date of submitting the forms, they did not have certificates of OBC (Non-Creamy Layer).

13. Simply because a notification has been issued and petitioners' caste has been included in the OBC, the petitioners cannot claim reservation. Because, the reservation to OBC category is not simply a caste based reservation. OBC reservation is also dependent upon financial status of the petitioner/family,



besides the caste. The petitioners had secured OBC (Non-Creamy Layer) certificate, much after the written examinations were held.

14. Since the petitioners' caste certificates have been issued after the written examinations, the same cannot be considered, given that the petitioners have submitted their application forms as General category candidates.

15. This Court does not find any error or infirmity in the decision of the respondent - Commission, which has refused to consider the petitioners as OBC (Non-Creamy Layer) category candidates.

16. Furthermore, the recruitment relates to the year 2013, which was over long ago and two more recruitments on the post of PTI Grade III have taken place. Hence, even if there is semblance of any right in petitioners' favour, no relief can be granted, as the posts (if any) remaining vacant out of the recruitment of 2013 must have been advertised and filled up in subsequent recruitments.

17. Resultantly, writ petitions are dismissed.

18. Stay applications also stand dismissed.

**(DINESH MEHTA),J**

155-Mak/-