IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.472 of 2023

In

Civil Writ Jurisdiction Case No.18940 of 2019

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1. The Bihar Public Service Commission through the Secretary, Bailey Road, Patna.
2. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Bailey Road, Patna.

... ... Respondents/Appellants

Versus

1. Dr. Sushma Sharan, daughter of Late M.C. Ram, Resident of C/C-56, P C Colony, Kankarbagh, P.S.-Kankarbagh, District-Patna.

….. Petitioner/Respondent

2. The State of Bihar.
3. The Principal Secretary, Medical, Education and Family Welfare Department of Health, Government of Bihar, New Secretariat, Patna.

... ...Respondents/Respondents

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Appearance :

For the Appellants	:	Mr. Kaushal Kumar Jha, Advocate Mr. Amish Kumar, Advocate
For the Respondent No.1	:	Mr. Chitranjan Sinha, Sr. Advocate Mr. P. N. Pathak, Advocate
For the State	:	Mr. Anil Kumar Verma, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE SOURENDRA PANDEY

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date : 30-10-2026

The present appeal has been filed against the judgment dated 14.02.2023, passed by the learned Single Judge in CWJC No.18940 of 2019 whereby and whereunder the respondents have been directed to consider the case of the respondent no.1 for appointment on the post of Assistant Professor in the

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department of Obstetrics and Gynecology under scheduled caste category on the basis of her merit, if she is found otherwise suitable and then it has been directed that she shall be offered appointment from the date similarly placed persons having lower merit than her have been appointed, however without all consequential benefits, except what has been specified in the said judgment.

2. The brief facts of the case are that an advertisement bearing No.20/2017 was published by the Bihar Public Service Commission (hereinafter referred to as "the BPSC") for appointment of 74 Assistant Professors in various Medical Colleges and Hospitals, out of which 13 posts were reserved for scheduled caste category and out of the said 13 posts, 5 posts were earmarked for female candidates. The respondent no.1 had applied in pursuance to the said advertisement published in the year 2017 for being appointed on the post of Assistant Professor in the department of Obstetrics and Gynecology under the scheduled caste category along with the requisite documents and caste certificate issued by the Sub-divisional Officer vide Certificate No.1598 dated 02.08.2006. The application of the respondent no.1 was then scrutinized and upon finding the same to be in order, the BPSC had issued interview letter to the

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respondent no.1, whereafter the respondent no.1 had appeared in the interview on 28.02.2018. Thereafter, all the requisite original documents, including caste certificate of the respondent no.1 were also verified. The result of successful candidates was published on 08.08.2019, however the name of the respondent no.1 did not find place under the scheduled caste category.

3. The respondent no.1 had pleaded in the writ petition that she is daughter of Late Mahim Chand Ram, who belongs to the scheduled caste category, as is apparent from the caste certificate dated 17.08.2019, issued by the Circle Officer, Patna Sadar, apart from the fact that her husband, namely Ganga Sharan also belongs to scheduled caste category. The respondent no.1 being aggrieved on account of her not being selected as Assistant Professor in the department of Obstetrics and Gynecology under the scheduled caste category in connection with Advertisement No. 20 of 2017 had filed a writ petition bearing CWJC No.18940 of 2019, *inter alia* praying therein to direct the respondents to declare the result of the respondent no.1 against the post of Assistant Professor in the department of Obstetrics and Gynecology under the scheduled caste category in connection with Advertisement No.20 of 2017.

4. The BPSC had filed a counter affidavit to the writ petition

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before the writ Court stating therein that Advertisement Nos. 7/2017 to 31/2017 were issued on the basis of requisition received from the Department of Health, Govt. of Bihar dated 26.02.2016, in terms of Bihar Health Service Recruitment Rules, 2008 and Revised Rules, 2013 whereby and whereunder altogether 1171 posts of Assistant Professor were requisitioned in different faculties of Medical Colleges & Hospitals as also under the Health Department, Govt. of Bihar. It had been further stated in the counter affidavit that the respondent no.1 had applied for the post of Assistant Professor in the department of Obstetrics and Gynecology in connection with Advertisement No.20/2017 and finding her to be eligible, she was allotted Roll No.200016 under the scheduled caste category. Thereafter, interview was held in between 26.02.2018 to 28.02.2018, whereafter a combined merit list was prepared on the basis of academic marks and interview marks of the candidates and then result of 37 successful candidates was published on 08.08.2019, however the respondent no.1 was unsuccessful because of her lower merit position in the unreserved category. It is submitted that the candidature of respondent no.1 was not considered under the reserved category since she had submitted her caste certificate issued in the name of her husband which should have

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been in the name of her father. The minutes of meeting convened on 08.08.2019 of all the members of the Commission was also produced along with the counter affidavit filed by the BPSC wherein the case of the respondent no.1 was discussed and it had been observed that during the course of verification of the application forms/certificates/documents of the candidates at the level of the commission, it was found that the married females belonging to reserved category had submitted non-creamy layer certificate/caste certificate containing the name of husband instead of father, hence for rectification of the same, one chance was given to the candidates by publishing notice in the daily newspaper and on the website of the Commission on 16.07.2018 & 21.07.2018 so that correct certificate could be submitted on 06.08.2018 or 07.08.2018, failing which candidature of such candidates would be considered/included in the unreserved category.

5. The learned Single Judge of this Court by the impugned judgment dated 14.02.2023, passed in CWJC No.18940 of 2019 has allowed the writ petition and directed the respondents to consider the case of the respondent no.1 herein for appointment on the post of Assistant Professor in the department of Obstetrics and Gynecology under the scheduled caste category

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on the basis of her merit on the following grounds: -

(i) The learned Single Judge has placed reliance on a judgment rendered by the Hon'ble Apex Court in the case of ***Aarav Jain vs. the Bihar Public Service Commission & Ors. (Civil Appeal No.4242 of 2022)*** and connected civil appeals wherein one of the appellant, namely ***Anita Kumar (Civil Appeal No. 4247 of 2022)*** had applied under the category of SC (female) but at the time of interview, she had submitted a caste certificate which contained the name of her husband but later on, she had submitted a caste certificate mentioning the name of her father, however her candidature was not considered under the scheduled caste category. Nonetheless, the Hon'ble Apex Court by a judgment dated 23.05.2022 held in paragraph nos.14 to 16 as follows :-

> *"14. 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.*

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15. 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.

16. 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."

(ii) The learned Single Judge has also relied on a judgment rendered by the Hon'ble Apex Court in the case of ***Dolly Chhanda vs. Chairman Jee & Ors.,*** reported in ***(2005) 9 SCC 779*** wherein it has been held that as far as production of necessary certificates, in order to avail the benefit of reserved category, etc. is concerned, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure as also every infraction of the rule relating to submission of proof need

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not necessarily result in rejection of candidature.

(iii) The status of an SC/ST and OBC candidate cannot be denied and such candidate cannot be forced to be treated as a general category candidate, hence the action of the BPSC in treating the respondent no.1 herein as a general category candidate is wrong.

(iv) The Appointing Authorities should give due weightage to a caste certificate issued by the authorities and if an earlier certificate is not in conformity with the latest guidelines, it does not mean that the candidate has lost its status of being from SC/ST category or from EBC or other reserved categories, hence on account of such reasons, a candidate cannot be denied his/her rightful claim in his/her own category.

(v) The State Government issues certificate to the person belonging to SC, ST, EBC, BC and other categories, hence the responsibility lies with the officers of the Government to issue certificates which are acceptable to the employment units and to the selecting bodies, who follow their instructions.

6. Being aggrieved by the impugned judgment dated 14.02.2023, passed by the learned Single Judge of this Court in

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CWJC No.18940 of 2019, the BPSC/appellants have filed the present appeal.

7. The learned Sr. Counsel for the appellants has submitted by referring to the caste certificate dated 02.08.2016, produced by the respondent no.1 herein that the same has been issued by the Sub-divisional Officer, Patna Sadar whereas the advertisement clearly stipulates that the candidate belonging to SC/ST category is required to produce caste certificate issued by the concerned Circle Officer. It is also submitted that the said prescription has also been mentioned in the interview letter issued to the respondent no.1, however still the respondent no.1 had not produced any caste certificate issued by the concerned Circle Officer. It is next submitted that the caste certificate dt. 17.08.2019 issued by the Circle Officer, Patna Sadar, Patna has been produced for the first time in the writ petition filed by the respondent no.1 herein on 20.08.2019, hence the same cannot be taken into consideration. Nonetheless, the learned Sr. Counsel for the BPSC has referred to the minutes of meeting convened on 08.08.2019 of all the members of the Commission wherein the case of the respondent no.1 has been discussed and it has been observed that during the course of verification of the application forms/certificates/documents of the candidates at the

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level of the commission, it was found that married females belonging to reserved category had submitted non-creamy layer certificate/caste certificate containing the name of husband instead of father, hence for rectification of the same, one chance was given to the candidates by publishing notice in the daily newspaper and on the website of the Commission on 16.07.2018 & 21.07.2018 so that correct certificate could be submitted on 06.08.2018 or 07.08.2018, failing which candidature of such candidates were to be considered in the unreserved category.

8. Thus, it is submitted by the learned Sr. Counsel for the BPSC that on account of the fact that the caste certificate furnished by the respondent no.1 contains the name of her husband instead of her father, the candidature of the respondent no.1 was considered in the merit-list of unreserved category, hence she could not succeed since under the unreserved category cut-off marks was 37.50 whereas the respondent no.1 had secured only 29 marks and was placed at merit position 50, however the last candidate in the unreserved category was placed at merit position 27. The learned Sr. Counsel for the appellants has submitted that as far as the judgment rendered by the Hon'ble Apex Court in the case of ***Aarav Jain*** (supra) is concerned, the same is confined to the facts and circumstances

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of the said case only, hence the same cannot be treated as a precedent. The learned Sr. Counsel for the appellants has, however relied on a judgment rendered by the learned Full Bench of this Court in the case of ***Braj Kishore Prasad vs. the State of Bihar & Ors.,*** reported in ***1998 (3) PLJR 34***, more particularly to paragraph no.26 thereof to contend that it has been held therein that where the advertisement specifies the last date for filing of supporting or other documents and that date must be given effect to, thus any document received after such date shall be rejected by the selecting authority.

9. The learned Sr. Counsel for the appellants has next relied upon a judgment rendered by a co-ordinate Bench of this Court in the case of ***Vandana Govindam vs. the State of Bihar & Ors.***, reported in ***2011 (2) PLJR 585*** to contend that every candidate seeking employment in public service has to abide by the terms and conditions of advertisement and caste certificate submitted after the date of interview cannot be entertained, thus since the caste certificate produced by the respondent no.1 was not issued by the competent authority, as required as per the stipulation in the Advertisement No.20/2017 and moreover, since the caste certificate of the respondent no.1 contains the name of her husband instead of her father, her candidature has

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rightly been placed in the unreserved category, therefore the impugned judgment dated 14.02.2023 is required to be set aside.

10. *Per contra*, the learned Senior Counsel for the respondent no.1 has submitted that the only ground on which the respondent no.1 has been declared to be unsuccessful in the aforesaid recruitment process is that caste certificate which she had submitted does not contain the name of her father but instead contains the name of her husband. In this connection, it is submitted that a bare perusal of the entire Advertisement No. 20/2017 would show that no such stipulation has been prescribed anywhere regarding the requirement of furnishing a caste certificate containing the name of the father of a candidate, which has also been admitted by the learned Sr. Counsel for the BPSC to be non-existent. Nonetheless, it is submitted by the learned Senior Counsel for the respondent no.1 that not only the father of the respondent no.1, but also the husband of respondent no.1 belongs to scheduled caste category and neither there is any objection on this score nor any allegation has been levelled by the BPSC regarding either the father or the husband of the respondent no.1 not belonging to the scheduled caste category. As regards the issue raised by the learned Sr. Counsel for the BPSC to the effect that the case certificate ought to have

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been issued by the concerned Circle Officer whereas the same has been issued by the concerned Sub-divisional Officer, it has been submitted by the Ld. Senior Counsel for the respondent no.1 that the minutes of meeting convened on 08.08.2019 of all the members of the Commission would show that respondent no.1 had been put under unreserved category not for this reason but on account of the fact that the caste certificate furnished by the respondent no.1 contains the name of her husband instead of her father. However, it is submitted by the Ld. Senior Counsel for the respondent no.1 that in any view of the matter, the Sub-divisional Officer is an officer higher in rank to the Circle Officer and the caste certificate is of the year 2006, when the competent authority for issuing caste certificate was the concerned Sub-divisional Officer and not the Circle Officer, thus once the caste certificate has been issued by the competent officer/authority, the same cannot be brushed aside by the appointing authority and in fact due weightage ought to be given to such a certificate, inasmuch as the caste certificate being not in conformity with the latest guideline would not mean that the candidate has lost its status of belonging to scheduled caste category, thus on such trivial issue the candidature of the respondent no.1 could not have been put under the unreserved

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category. The Ld. Senior Counsel for the respondent no.1 has next referred to the caste certificate dated 17.08.2019 issued by the Circle Officer, Patna Sadar, Patna wherein the name of the father of the petitioner has been mentioned, hence it is submitted that the impugned judgment dated 14.02.2023, passed by the learned Single Judge cannot be faulted with and in view the vacancies still being there, the respondent no.1 is required to be appointed on the post of Assistant Professor in the department of Obstetrics and Gynecology. The learned Senior Counsel for the respondent no.1 has submitted that it is apparent from the counter affidavit filed in the writ proceedings that five seats have remained vacant thus the respondent no.1 can very well be accommodated.

11. The learned Senior Counsel for the respondent no.1 has also referred to a judgment rendered by the Hon'ble Apex Court in the case of ***Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board & Anr.***, reported in ***(2016) 4 SCC 754***, to submit that it has been held by the Hon'ble Apex Court that candidature of those candidates, who belong to SC/ST categories cannot be rejected simply on account of late submission of caste certificate, inasmuch as the same would amount to denial of equality of opportunity contemplated under

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Articles, 14, 15, 16 and 39-A of the Constitution of India. It would be apposite to reproduce paragraph nos.15 to 18 of the judgment rendered in the case of ***Ram Kumar Gijroya*** (supra), herein below:-

> "**15.** The relevant paragraph from the judgment of this Court in *Indra Sawhney* [*Indra Sawhney* v. *Union of India*, 1992 Supp (3) SCC 217] has been extracted in *Pushpa* [*Pushpa* v. *Govt. (NCT of Delhi)*, 2009 SCC OnLine Del 281] 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*

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*opportunity. ... Therefore the seats to be reserved, if the reservation is to be consistent with sub-clause (1) of Article 10, [**Ed.**: The matter between two asterisks has been emphasised in Indra Sawhney case, 1992 Supp (3) SCC 217.] must be confined to a minority of seats [**Ed.**: The matter between two asterisks has been emphasised in Indra Sawhney case, 1992 Supp (3) SCC 217.]. 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'être 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 [Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217], SCC, para 251)"

16. In *Pushpa*, relevant paragraphs from *Tej Pal Singh* [1999 SCC OnLine Del 1092] have also been extracted, which read thus:

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"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

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society meaningful.' (Tej Pal Singh case [Tej Pal Singh v. Govt. (NCT of Delhi), 1999 SCC OnLine Del 1092]"

17. Further, in *Pushpa* [2009 SCC OnLine Del 281], relevant portion from the judgment of *Valsamma Paul case* [*Valsamma Paul* v. *Cochin University*, (1996) 3 SCC 545] has also been extracted, which reads as under:

"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."

18. *In our considered view, the decision rendered in Pushpa [2009 SCC OnLine Del 281] 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 [Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217] and Valsamma Paul [(1996) 3 SCC 545] 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 compete 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*

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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 [Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217] and Valsamma Paul [Valsamma Paul v. Cochin University, (1996) 3 SCC 545]. Therefore, the impugned judgment and order [Delhi Subordinate Services Selection Board v. Ram Kumar Gijroya, 2012 SCC OnLine Del 472] 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) [Ram Kumar Gijroya v. Govt. (NCT of Delhi), WP (C) No. 382 of 2009, order dated 24-11-2010 (Del)] is hereby restored."

12. We have heard the learned counsel for the parties and perused the materials on record from which it is clear that an advertisement bearing No.20/2017 was published by the BPSC for appointment of 74 Assistant Professors in various Medical Colleges and Hospitals, out of which 13 posts were reserved for scheduled caste category and out of the said 13 posts, 5 posts were earmarked for female candidates. The respondent no.1 had applied in pursuance to the said advertisement for being appointed on the post of Assistant Professor in the department of Obstetrics and Gynecology under the scheduled caste category along with the requisite documents and caste certificate issued by the Sub-divisional Officer vide Certificate No.1598 dated

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02.08.2006. The application of the respondent no.1 was scrutinized and upon finding the same to be in order, the BPSC had issued interview letter to her, whereafter she had appeared in the interview on 28.02.2018. Thereafter, all the requisite original documents, including caste certificate of the respondent no.1 were verified. The result of successful candidates was published on 08.08.2019, however the name of the respondent no.1 did not find place under the scheduled caste category.

13. The respondent no.1 being aggrieved on account of her not being selected as Assistant Professor in the department of Obstetrics and Gynecology under the scheduled caste category in connection with Advertisement No. 20 of 2017 had filed a writ petition bearing CWJC No.18940 of 2019, inter alia praying therein to direct the respondents to declare the result of the respondent no.1 against the aforesaid post under the scheduled caste category. The respondent no.1 has pleaded in the writ petition that she is daughter of Late Mahim Chand Ram, who belongs to the scheduled caste category, as is apparent from the caste certificate dated 17.08.2019, issued by the Circle Officer, Patna Sadar, apart from the fact that her husband, namely Ganga Sharan also belongs to scheduled caste category.

14. The BPSC had filed a counter affidavit to the aforesaid

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writ petition stating therein that Advertisement Nos. 7/2017 to 31/2017 were issued on the basis of requisition received from the Department of Health, Govt. of Bihar dt. 26.2.2016, in terms of Bihar Health Service Recruitment Rules, 2008 and Revised Rules, 2013. As far as the respondent no.1 is concerned, she had applied for the post of Assistant Professor in the department of Obstetrics and Gynecology in connection with Advertisement No.20/2017 and finding her to be eligible, she was allotted Roll No.200016 under the scheduled caste category, whereafter, interview was held and then a combined merit list was prepared on the basis of academic marks and interview marks of the candidates. The result of 37 successful candidates was then published on 08.08.2019, however the respondent no.1 was unsuccessful because of her lower merit position in the unreserved category. The candidature of respondent no.1 is stated to have not been considered under the reserved category since she had submitted her caste certificate issued in the name of her husband which should have been in the name of her father. The minutes of meeting convened on 08.8.2019 has been referred to, wherein it has been observed that during the course of verification of application forms/certificates/ documents of the candidates at the level of the commission, it was found that

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the married females belonging to reserved category had submitted non-creamy layer certificate/caste certificate containing the name of husband instead of father, hence for rectification of the same, one chance was given to the candidates by publishing notice in the daily newspaper and on the website of the Commission so that correct certificate could be submitted, failing which it was postulated that the candidature of such candidates would be considered in the unreserved category. Thus, the candidature of the respondent no.1 was considered under the unreserved category since she had submitted her caste certificate issued in the name of her husband which should have been in the name of her father, thus she was unsuccessful because of her lower merit position in the unreserved category.

15. The learned Single Judge of this Court by the impugned judgment dated 14.02.2023, passed in CWJC No.18940 of 2019 has allowed the writ petition and directed the respondents to consider the case of the respondent no.1 for appointment on the post of Assistant Professor in the department of Obstetrics and Gynecology under the scheduled caste category on the basis of her merit. The said judgment dated 14.02.2023 is under challenge in the present appeal, filed by the appellants/BPSC.

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16. Having heard the Ld. Senior Counsels for the parties, we find that the issue which is required to be decided in the present appeal is as to whether non-mentioning of the name of the father of the respondent no.1 in the caste certificate dated 02.08.2006 and instead mentioning the name of her husband would entail consideration of the candidature of the respondent no.1 under the unreserved category. To this, our answer is in negative, for the reason that a bare perusal of the entire terms and conditions mentioned in the aforesaid Advertisement No.20/2007 would show that no such condition is prescribed therein, i.e. to the effect that the caste certificate to be submitted by the SC/ST candidate should contain the name of the father of the candidate and not the husband of a married female candidate.

17. Yet another ancillary issue which arises for consideration is as to whether the caste certificate issued by the Sub-divisional Officer, Patna Sadar dated 02.08.2006 would be a relevant proof of the factum of the respondent no.1 belonging to scheduled caste category or not, especially in absence of such caste certificate having been issued by the Circle Officer, which in any view of the matter was subsequently issued by the Circle Officer, Patna Sadar on 17.08.2019 containing the name of the father of the respondent no.1 as well. In this regard, we would

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first of all refer to the judgment rendered by the learned Full Bench of this Court in the case of ***Braj Kishore Prasad*** (supra), paragraph no.26 (d) whereof is reproduced herein below:-

> "**26. (*d)*** *In appropriate cases where this Court is satisfied that a case of extreme hardship or injustice has resulted on account of factors beyond the control of the concerned candidate, this Court in exercise of its writ jurisdiction may grant relief in deserving cases. But in doing so, the Court must be satisfied that the candidate concerned has acted diligently, and is not guilty of delay or laches in taking necessary steps for procuring the requisite certificates etc. However, no relief shall be granted where the requisite certificate is produced for the first time after the process of selection is complete and the selecting authority has made its recommendation."*

18. Thus, it is apparent from what has been held by the learned Full Bench of this Court in the judgment rendered in the case of ***Braj Kishore Prasad*** (supra), as aforesaid that the powers of the writ court are not fettered, thus it may grant relief in exercise of its writ jurisdiction in deserving cases and this is exactly what has been done by the writ court in the present case.

19. It is a well-settled law that a certificate issued by the competent authority regarding a person belonging to a scheduled caste category by birth is only an affirmation of the fact which is already in existence and the purpose of such

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certificate is to enable the authorities to believe in the assertion of the candidate that he/she belongs to the scheduled caste category and act thereon by giving benefit to such candidate for him belonging to the scheduled caste category. In the present case, it is not denied by the authorities of the BPSC that the respondent no.1 does not belong to the scheduled caste category, thus keeping in mind the objective behind the post of SC/ST category, as per the constitutional mandate prescribed in Articles 15(4) and 16(4) of the Constitution of India, which are enabling provisions, authorising the Government to make special provisions for the persons of SC and ST categories and taking into account the object of providing reservation to educationally and socially backward scheduled castes and scheduled tribes, i.e. to remove the inequality in public employment as the candidates belonging to these categories are unable to compete with candidates belonging to general category, the candidature of respondent no.1 could not have been rejected as a scheduled caste category candidate merely on the ground of non-existent technicalities/reasons, though it has not been disputed by the appellants that the Sub-divisional Officer, who had issued the caste certificate dated 02.08.2006, is an officer higher in rank to the Circle Officer, apart from the fact that the respondent no.1

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had also produced the caste certificate issued by the Circle Officer, Patna Sadar dated 17.08.2019, which has been annexed to the writ petition.

20. Having regard to the facts and circumstances of the case and for the foregoing reasons, we do not find any infirmity in the impugned judgment dated 14.02.2023, passed by the learned Single Judge in CWJC No.18940 of 2019, hence the present appeal stands dismissed.

(Mohit Kumar Shah, J)

(Sourendra Pandey, J)

kanchan/-

AFR/NAFR	AFR
CAV DATE	03.08.2026
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