

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P (S) No. 493 of 2023

Chanchala Kumari, aged about 24 years, daughter of Vijay Kumar Das, wife of Akhil Kumar Das, resident of Village-Nawadih, P.O. & P.S. Domchanch, District-Koderma, (Jharkhand).

..... Petitioner

V E R S U S

1. State of Jharkhand through the Chief Secretary, Government of Jharkhand, having office at Project Building, Dhurwa, P.O. – Dhurwa, P.S. – Jagarnathpur, District – Ranchi.

2. Secretary, Personnel, Administrative Reforms & Rajbhasha Department Government of Jharkhand, having office at Project Building, Dhurwa, P.O. – Dhurwa, P.S. – Jagarnathpur, District – Ranchi.

3. Jharkhand Public Service Commission through its Secretary, having office at Circular Road, P.O. & P.S. – Lalpur, District – Ranchi.

4. Controller of Examination, Jharkhand Public Service Commission, having office at Circular Road, P.O. & P.S. – Lalpur, District – Ranchi.

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s)	: Mr. Indrajit Sinha, Advocate Mr. Amritansh Vats, Advocate Mr. Amartya Choubey, Advocate Mr. Arpan M. Ekka, Advocate
For the Resp.-State	: Mr. Rahul Saboo, G.P.-II Mr. Kunal Chandra Suman, A.C. to G.P.-II
For the JPSC	: Mr. Sanjoy Piprawall, Advocate Mr. Prince Kumar, Advocate

C.A.V. ON: 18/06/2026

PRONOUNCED ON:12/08/2026

1. Heard learned counsel for the parties.

2. The instant writ application has been preferred by the petitioner praying therein for the following reliefs: -

“To consider the case of the Petitioner for appointment to the post of Class-II officer under SC category pursuant to Advertisement No.01/2021 (7th-10th Jharkhand Combined Civil Services Examination-2021) (Annexure-2) published by Jharkhand Public Service Commission, since Petitioner has obtained marks much above than last selected candidates but her candidature has been rejected as she has mentioned the caste-certificate in the online application form issued on the basis of her husband but later on, at the time of interview, she has submitted the caste-certificate issued on the basis of her father and she was allowed to sit in the interview process without any objection by the Jharkhand Public Service Commission.”

3. The brief fact of the case is that an advertisement was published by the Jharkhand Public Service Commission (hereinafter referred as ‘JPSC’) inviting eligible candidates for appointment on Class-II Posts (Civil Services). Pursuant thereto, the petitioner has filled-up the examination form and appeared in the examination. She has been declared successful in preliminary test examination; thereafter, she has again asked to fill-up the application form for appearing in the mains examination, wherein, she has applied under SC category. Thereafter, she was declared successful in the mains examination and was called for verification of her documents, which was scheduled on 09.05.2022 and subsequently, she was also called for interview, which was scheduled on 10.05.2022.

4. Just a day before interview i.e. on 09.05.2022, she has submitted all her documents including caste certificate and

educational certificates etc., before the officials of JPSC, but the JPSC has asked to submit the caste certificate, which was issued on the basis of her father and not on the basis of her husband as she has submitted the caste certificate dated 27.03.2019 issued on the basis of her husband on the date of document verification. Subsequently on the very next day, the petitioner has submitted her caste certificate dated 09.05.2022 issued on the basis of her father.

5. On 31.05.2022, the result was published, wherein, her name was not found place. Subsequently, when the marks statement and cut off marks category wise was published, the petitioner found that she had obtained total 590 marks; however, the cut off marks in SC Category was 583 marks.

In the remark column of the marks statement issue by the JPSC, the reason for non-consideration was mentioned as *“candidate got benefit of SC category in PT Result while uploaded caste certificate issued on the basis of husband”*.

Submission on behalf of the petitioner: -

6. Learned Counsel of the petitioners submit that the petitioner even after obtaining higher marks than the last selected candidate in her category has not been selected; rather, the candidature of the petitioner was rejected on the ground that she has applied for the examination under SC

category on the basis of the caste certificate issued in the name of husband.

7. Learned Counsel of the petitioner further submit that the caste certificate uploaded at the time of filling-up the form of mains examination not at the time of PT Examination in a proper format i.e. Form – 1 issued from the office of Sub Divisional Officer, Koderma. It has been further contended that the petitioner has applied for the said certificate on 04.01.2019, but the same was issued on 27.03.2019. At the relevant point of time, when she has applied for the caste certificate, she has to fill-up the form, wherein, the name of father and the name of wife/husband is required to be filled-up, but the office of Sub Divisional Officer, Koderma has issued the certificate on the basis of the name of husband in spite of the fact that there was clear direction issued by the Additional Chief Secretary to all the officers of the State of Jharkhand vide letter dated 25.02.2019 as contained in Memo No. 1754 (Annexure-I/A of the counter affidavit), wherein, at Clause – 11 of the said letter, specifically states that all the caste certificate will be issued on the basis of father.

8. Learned Counsel of the petitioner further contended that it is not a case of the petitioner that she is original resident of some other State; rather she is original resident of Jharkhand, which would be evident from both the caste

certificates submitted by the petitioner, wherein, the address is the same, but due to the mistake committed on the part of the S.D.O., Koderma while issuing the caste certificate dated 27.03.2019, which was applied on 04.01.2019 on the basis of her husband rather than issuing on the basis of her father, due to which the petitioner has been objected by the JPSC.

9. It has been further contended on behalf of the petitioner that the petitioner cannot be made sufferer due to the mistake committed on behalf of the authorities as the directions were clearly issued vide letter dated 25.02.2019 contained in Memo No. 1754 that all the caste certificates will be issued on the basis of father, but the same was not followed by the S.D.O., Koderma while issuing the caste certificate to the petitioner.

10. It was further contended on behalf of the petitioner that the petitioner has obtained higher marks than the last selected candidate and there is no dispute about the caste of the petitioner and entitlement based on the said caste certificate; rather there is no allegations of submission of the caste certificate in a different format or issued from any incompetent authorities.

11. It was also contended that the error in the caste certificate is not at the instance of this petitioner rather, it is at the instance of the S.D.O., Koderma.

12. The learned counsel representing on behalf of the petitioner has further relied upon the judgment passed by the Division Bench of this Court in *W.P (S) No. 6657 of 2024 (Deepak Kumar v. State of Jharkhand & Ors.)*, which was also affirmed by the Hon'ble Supreme Court in *S.L.P (C) No. 20375 of 2025*, whereby, the Division Bench of this Court has allowed the candidate for publication of result, who inadvertently could not claim the reservation in the examination form holding that there can be no waiver of fundamental rights.

13. The learned counsel further relied upon the judgment rendered by Hon'ble Supreme Court in the case of ***Ram Kumar Gijroya v Delhi Subordinate Services Selection Board & Anr***, reported in ***(2016) 4 SCC 754***.

Submissions on behalf of the Respondents: -

14. Learned Counsels on behalf of the respondents has submitted that as per the terms of the advertisement, the petitioner has submitted her online application for consideration of her candidature for appointment against the advertised posts under SC category and after receiving the application form, the same was scrutinized, thereafter, the admit card was issued. The petitioner has appeared in the mains examination on the basis of caste certificate dated 27.03.2019 issued by the S.D.O., Koderma, which was also uploaded in her online application form. The petitioner was

allowed to appear in the interview and was required to produce the caste certificate in proforma-IV, which is a part of the advertisement.

15. It was further submitted that in light of the letter dated 25.02.2019 the certificate must be issued on the basis of her father, but she has submitted the caste certificate issued on the basis of her husband as such the same is not valid for extending the benefit of reservation to the petitioner in terms of the advertisement and in terms of the *Jharkhand Combined Civil Services Examination Rules, 2021*.

16. It was also contended that the candidates were required to obtain the caste certificate in proper proforma in terms of the advertisement issued by the competent authorities up to last date of submission of the application form of the PT examination and no fresh caste certificate, which was not mentioned in the online application form for mains examination will be accepted as the same would amount to change in the terms of the advertisement.

17. Learned Counsels for the respondents has further relied upon the reference answered by the Full Bench of this Court in ***L.P.A. No. 64 of 2020 (Dr. Nutan Indwar @ Nutan Indwar v. State of Jharkhand & Ors.)*** and analogous cases and the final judgment rendered by the Division Bench of this Court in the very same batch of cases.

18. Learned Counsel for the respondents has further relied upon the judgment rendered in ***L.P.A. No. 530 of 2024 (Pawan Oraon Vs. State of Jharkhand & Ors.) and L.P.A. No. 139 of 2024 (Ramanika Kisku v. State of Jharkhand & Ors.)***.

Analysis

19. From the bare perusal of the remarks mentioned in the marks statement of the petitioner published by the JPSC, her candidature has been rejected on the sole ground that she has uploaded the caste certificate issued on the basis of her husband. Even in the counter affidavit filed by JPSC, the stand was taken that she does not have caste certificate issued on the basis of her father at the time of filling-up the application form for the examination.

20. By bare perusal of both the caste certificates i.e. 27.03.2019 and 09.05.2022, the residential address in the certificates is the same; meaning thereby that the petitioner is the original resident of Jharkhand and she also belong to the same caste before and after marriage. It is not a case that she is claiming reservation on the basis of the caste of her husband.

21. The JPSC has not able to demonstrate that the caste certificate on the basis of which she has applied is not in a proper format; nor that was the ground for rejection. The only

ground which was pointed out by JPSC that the caste certificate dated 27.03.2019 was issued on the basis of her husband.

22. During the course of arguments, the learned Counsel for JPSC has relied upon the letter dated 25.02.2019, by which the directions have been issued by the State Government to all the authorities to issue the caste certificate on the basis of father only, even though the petitioner has not submitted the caste certificate on the basis of her father, rather she has submitted the caste certificate issued on the basis of her husband, hence the candidature of the petitioner has been rejected rightly.

23. However, facts remains that the petitioner has applied for the caste certificate on 04.01.2019, which is much prior to the issuance of the letter dated 25.02.2019, but, in spite of said specific direction, the Sub Divisional Officer, Koderma has issued the caste certificate on 27.03.2019 in the name of her husband rather than issuing the caste certificate in the name of the father, which is apparent error committed on the part of the Sub Divisional Officer Koderma, and cannot be said to be error on the part of the petitioner.

The Sub Divisional Officer, should have issued the caste certificate in the name of her father in light of directions issued vide letter dated 25.02.2019 or could have rejected the

application of the petitioner for issuing caste certificate, but the same was not done.

24. There is yet another aspect of the case. The letter dated 25.02.2019 does not have any force of law, as the same was never been notified in Gazette or have been published as Government Circular/ Resolution etc.

25. By the bare perusal of letter dated 25.02.2019, it seems that the same is only issued in the form of a letter addressed to all the authorities of Jharkhand, hence it cannot be excepted that public at large is having the knowledge of content of letter dated 25.02.2019, which direct the caste certificate issuing authorities to henceforth issue the caste certificate on the basis of father.

26. Even otherwise, the letter dated 25.02.2019 will not make any subsequent caste certificates issued thereafter as void; rather the same will have the force in law as the same is issued after due verification by the competent authority i.e. Sub Divisional Officer, since the letter dated 25.02.2019 does not have any force in law like a Statute, Regulation, Resolution or Notification.

27. So, far as the stand taken by the learned Counsel of JPSC that the caste certificate which has been uploaded by the petitioner along with her online application form for the examination is not in terms of the advertisement is not at all

tenable since by the bare perusal of the advertisement, nowhere, it is prescribed that the caste certificate should have been issued only in father's name, rather, in Proforma-IV of the advertisement, the name of the husband is also mentioned along with the name of father. Further, from the bare perusal of the caste certificate dated 27.03.2019, it transpires that the same has been issued by the competent authority i.e. Sub Divisional Officer as per terms of advertisement and is in the same format as mentioned in the Proforma-IV.

28. The learned Counsel for respondents has relied upon the judgment rendered in **L.P.A. No. 530 of 2024 (Pawan Oraon V. State of Jharkhand & Ors.)**, wherein, the issue which was decided as whether the caste certificate issued for the purpose of consideration of appointment to the post of Central Education Institutes under Government of India will be considered for appointment of jobs in the State of Jharkhand. The issue in the said case is completely different in the facts and circumstances of the present case, hence the law laid down in the said case cannot come to help the respondents. The relevant portion of judgment rendered in **L.P.A. No. 530 of 2024** is extracted herein below:-

48. This Court after having discussed the aforesaid fact and adverting to the order passed by the learned Single Judge, is of the view that the learned Single Judge has primarily taken into consideration the condition stipulated in Condition No. 7(a) and (c) (i) along with the consequence and considering also the admitted fact that the appellant-

petitioner had failed to produce the caste certificate in terms of the said clause, rather the caste certificate which was produced for the purpose of consideration of appointment to the posts/admission to the Central Educational Institution (C.E.I.s) under the Government of India.

49. *Hence, this Court is of the view that the view taken by learned Single Judge cannot be said to suffer from an error.*

50. *Accordingly, the instant appeal stands dismissed.*

29. Learned Counsel for respondents have further relied upon the judgment rendered in **L.P.A. No. 139 of 2024 (Ramanika Kisku V. State of Jharkhand & Ors.)**, wherein, a caste certificate was submitted on behalf of candidates at the time for filing up the form was issued on the basis of her husband, but later on she has tried to rectify her mistake by submitting the caste certificate issued in her father's name, but the said caste certificate was issued by Sub-Divisional Officer, Banka, Bihar, meaning thereby that she was not the original resident of Jharkhand, rather she was original resident of Bihar. She tried to take benefit of reservation on the basis of her marriage. The Division Bench of this Court decided not to grant relief to the candidate who tried to take benefit of reservation upon her marriage and the caste of her husband, which she doesn't actually belong. The caste certificate furnished at the time of verification of documents, has not been found in terms of the conditions stipulated in the advertisement, hence, the said judgment is also distinguishable in the facts and circumstances. The relevant

portion of judgment rendered in **L.P.A. No. 139 of 2024** is extracted herein below:-

2. Brief facts of the case as per the pleadings made in the writ petition, as has been incorporated in the memo of appeal and the impugned order, read as under:

"The respondent-JSSC published an advertisement being Advertisement no.21 of 2016 for appointment of TGT. The petitioner submitted online application form on 24th March, 2017 for the said post in the subject 'Hindi' under Scheduled Tribes category along with other relevant documents including educational qualification. Pursuant thereto, provisional admit card was issued to her to appear in the said examination. She having qualified in the written test was issued notice by the respondent-JSSC for verification of the certificates. Thereafter, the petitioner appeared for the said verification before the respondent-JSSC on 28th September, 2018 with all relevant documents as mentioned in the advertisement, however, on the said date itself i.e. 28th September, 2018 the respondent-JSSC issued notice to the petitioner vide letter no.4642 informing her to submit caste certificate issued in the name of her father, The petitioner had passed matriculation examination from Government Girls School, Dumka in the year 1994. Thereafter, she passed intermediate examination from S.P. Mahila College, Dumka in the year 1996 and marks-sheet was issued by the Bihar Intermediate Education Council, Patna. The petitioner also passed graduation examination from Siddhu-Kanhu University, Dumka in the year 2000 and subsequently passed B.Ed. examination in the year 2007 from the said University. The petitioner had submitted residential certificate showing her place of residence as village-Godaidhab, Gram Panchayat-Bhatbhanga Santhali, Block-Taljhari, Post Office-Taljhari, P.S.-Taljhari, District-Sahebganj.

Pursuant to the aforesaid notice dated 28th September, 2018, the petitioner submitted another caste certificate issued in the name of her father by the Sub Divisional Officer Banka (Bihar), showing that she/her father belong to Santha community coming under S.T. category. Despite the said fact, the petitioner's candidature under S.T. category was not considered, rather her candidature was considered under unreserved category, as would be evident from important notice no.2522 dated 14th February, 2019 (Annexure-F to the counter affidavit dated 1st December, 2023 filed on behalf of the respondent-JSSC). The said action of the respondent-JSSC is highly arbitrary and illegal, as the petitioner despite being a member of S.T. community and being the resident of the State of Jharkhand, her candidature was not considered under the said category and due to the said reason, the appointment letter was finally not issued to her."

3. It is evident from the factual aspect that the writ petitioner, in pursuance to advertisement, being Advertisement No.21 of 2016 issued for appointment of Trained Graduate Teacher has submitted online application for the post in the subject "Hindi" under Scheduled Tribes category. The candidature of writ petitioner was accepted. She had participated in the process of selection. But at the time of verification of the documents, her candidature under the Scheduled Tribes category has been refused to be accepted on the ground that the caste certificate furnished by the writ petitioner was issued from the successor

State of Bihar on 04.10.2018 issued from the office of the Sub Divisional Office, Banka (Bihar).

20. *Herein also, the candidature of the writ petitioner although has been accepted under the Scheduled Tribes category based upon the caste category furnished by her at the time of submission of online application, but on verification, during the time of verification of document, the caste certificate has not been found to be in consonance with the conditions stipulated in the advertisement therefore if the caste certificate itself is contrary to the condition stipulated in the advertisement, then no right will be said to have accrued in favour of the writ petitioner during the course of recruitment process and if the same has been noticed by the Commission and if in such circumstances, the candidature of the appellant has been rejected then it is not available for the appellant to take the ground that since she has been allowed to participate in the process of selection, rejection of her candidature will be said to be unjustified.*

21. *Thus, on the basis of discussion made hereinabove and particularly taking into consideration the dictum of this Court in the case of Pawan Oraon (supra) and Sher Mohammad (supra), we are of the view that the order/judgment passed by the learned Single Judge need no interference by this Court and, accordingly, this appeal is dismissed.*

22. Pending I.As, if any, stands disposed of.

30. Learned Counsel for the respondents further relied upon the judgment rendered ***in L.P.A No. 64 of 2020 (Dr. Nutan Indwar @ Nutan Indwar v. State of Jharkhand & Ors.)***, the Full Bench of this Court while answering the reference has held that the cutoff date mentioned in the advertisement has to be strictly followed and if there is no cutoff date in the advertisement also, then the last date of application form to be treated as cut-off date. Further it has been held that a candidate must adhere to the conditions and requirement, which have been prescribed in the Rules. There cannot be any deviation. The entire judgment was with respect to cut off date and there cannot be any deviation from the terms of the advertisement and rule, further it has been held

that the certificate issued in prescribed format can only be acceptable.

31. However, in the present case in hand, there is no allegation alleged with regards to format or submission of valid caste certificate after cut-off date, rather the petitioner has furnished the caste certificate in proper prescribed format before the cut-off date, but due to error on the part of the State, the same is issued on the basis of name of her husband instead of her father, which was later on clarified by showing the caste certificate issued in name of father having same caste and same place of resident. The relevant portion of judgment rendered in **L.P.A. No. 64 of 2020** is extracted herein below:-

39. *To summarise, from what has been held above, it is clear that :*

(a) If a cut-off date is fixed for submitting documents by the Rules, the same has to be followed and in absence of any cut-off date in the Rules, the cut-off date mentioned in the advertisement has to be strictly followed and if there is no cut-off date in the advertisement also, then the last date of application should be treated to be the cut-off date. The cut-off date is sacrosanct and the conditions and eligibility criteria mentioned in the advertisement must be read in harmony with the cut-off date. The cut-off date cannot be changed nor any authority can impliedly shift the cut-off date by giving relaxation to fulfill a criteria, which ought to have been fulfilled by the candidate within the said cut-off date.

It is also clear that a person, who acquires prescribed qualification after the cut-off date is not eligible to be considered and they cannot get any preferential treatment. Possessing a valid caste certificate / necessary certificate issued by the competent authorities in a prescribed format on the cut-off date is the prescribed qualification.

52. *The off shoot of the analysis and the judgments is that a candidate must adhere to the conditions and requirements, which have been prescribed in the Rules. There cannot be any deviation. Certificate, which has been prescribed to be furnished in a proper format should be in the format as prescribed. Similarly, if an authority has been prescribed to issue the said certificate, the certificate issued by the said authority only will be accepted. Certificate issued by any other authority, which is not in the format cannot be accepted. Further, Article 335 of the Constitution of India has no*

application in this matter, inasmuch by prescribing an authority and the format, the Scheduled Caste / Scheduled Tribe / Other Backward Class as a whole is not excluded from getting the benefit of reservation. It is only an individual in that group, who does not qualify or does not possess the requisite qualification / certificate is debarred. Disqualifying an individual within the class cannot be said to be deprivation of entire class.

32. Learned Counsel for the respondents further relied upon the judgment rendered ***in L.P.A No. 64 of 2020 (Dr. Nutan Indwar @ Nutan Indwar v. State of Jharkhand & Ors.)*** , the Division Bench after considering the reference answered in the full bench of this Court has held that any appointment taken under false and incorrect information are treated to be void, further it was held that mere acceptance of application form and permission to appear in the examination would not be any right to the candidate to be treated in the reserved category. Further, it has been held that a candidate cannot claim a reservation that he/she belongs to reserved category, for claiming reservation, the candidate is bound to submit the caste certificate in a prescribed format. Hence, the law laid down in the aforesaid case is not applicable in facts and circumstances as issue herein is peculiar with respect that whether the caste certificate issued in husband's name due to mistake committed on the part of State, later on rectified by producing in the caste certificate issued name of father can be considered in absence of any allegation dealt in aforesaid judgment.

33. Further, the learned Counsel for the petitioners have relied upon the judgment of the Division Bench, in **W.P (S) No. 6657 of 2024 (Deepak Kumar v State of Jharkhand & Ors)**, wherein, it was held that in no stretch of imagination due to inadvertent omission, the fundamental rights can be waived and there cannot be waiver of a fundamental right. The judgment passed in W.P (S) No. 6657 of 2024 was further upheld by Hon'ble Supreme Court in S.L.P (C) No 20375/2025. The relevant portion of judgment rendered in **W.P (S) No. 6657 of 2024** is extracted herein below:-

5. Having heard learned counsels for the parties and after perusing the averments made in the respective affidavits and the documents annexed therein, we are of the considered opinion that this application requires interference in view of the admitted fact that the Petitioner belongs to Scheduled Caste category and thus is entitled to reservation in terms of Article 16(4) of the Constitution of India, which is a fundamental right and by no stretch of imagination, an inadvertent omission to mark 'YES' in the column of reservation, can waive of his fundamental right.

The act of the Respondent JPSC in treating the Petitioner, a member of the scheduled caste, as unreserved shall defeat the entire purpose of reservation which is a constitutional mandate. The Respondent JPSC, while considering the Petitioner to be of the unreserved category, have completely lost sight of the settled principle of law that there can be no waiver of a Fundamental Right. In this regard reference may be made to the case of *Basheshar Nath v. CIT*, reported in (1959) 35 ITR 190 wherein at para-15 the Hon'ble Apex Court has held as under:

"15. Such being the true intent and effect of Article 14 the question arises, can a breach of the obligation imposed on the State be waived by any person? In the face of such an unequivocal admonition administered by the Constitution, which is the supreme law of the land, is it open to the State to disobey the constitutional mandate merely because a person tells the State that it may do so? If the Constitution asks the State as to why the State did not carry out its behest, will it be any answer for the State to make that 'true, you directed me not to deny any person equality before the law, but this person said that I could do so, for he had no objection to my doing it'. I do not think the State will be in any better position than the position in which Adam found himself when God asked him as to why he had eaten the forbidden fruit and the State's

above answer will be as futile as was that of Adam who pleaded that the woman had tempted him and so he ate the forbidden fruit. It seems to us absolutely clear, on the language of Article 14 that it is a command issued by the Constitution to the State as a matter of public policy with a view to implement its object of ensuring the equality of status and opportunity which every welfare State, such as India, is by her Constitution expected to do and no person can, by any act or conduct, relieve the State of the solemn obligation imposed on it by the Constitution. Whatever breach of other fundamental right a person or a citizen may or may not waive, he cannot certainly give up or waive a breach of the fundamental right that is indirectly conferred on him by this constitutional mandate directed to the State."

6. *It is also now well settled principle that there is no estoppel against the Constitution. In this regard reference may also be made to the case of Olga Tellis v. Bombay Municipal Corpn. reported in (1985) 3 SCC 545 wherein the Hon'ble Apex Court has held at para-28 as under:*

28.There can be no estoppel against the Constitution. The Constitution is not only the paramount law of the land but, it is the source and sustenance of all laws. Its provisions are conceived in public interest and are intended to serve a public purpose. The doctrine of estoppel is based on the principle that consistency in word and action imparts certainty and honesty to human affairs. If a person makes a representation to another, on the faith of which the latter acts to his prejudice, the former cannot resile from the representation made by him. He must make it good. This principle can have no application to representations made regarding the assertion or enforcement of fundamental rights. For example, the concession made by a person that he does not possess and would not exercise his right to free speech and expression or the right to move freely throughout the territory of India cannot deprive him of those constitutional rights, any more than a concession that a person has no right of personal liberty can justify his detention contrary to the terms of Article 22 of the Constitution. Fundamental rights are undoubtedly conferred by the Constitution upon individuals which have to be asserted and enforced by them, if those rights are violated. But, the high purpose which the Constitution seeks to achieve by conferment of fundamental rights is not only to benefit individuals but to secure the larger interests of the community. The Preamble of the Constitution says that India is a democratic Republic. It is in order to fulfil the promise of the Preamble that fundamental rights are conferred by the Constitution, some on citizens like those guaranteed by Articles 15, 16, 19, 21 and 29 and, some on citizens and non-citizens alike, like those guaranteed by Articles 14, 21, 22 and 25 of the Constitution. No individual can barter away the freedoms conferred upon him by the Constitution. A concession made by him in a proceeding, whether under a mistake of law or otherwise, that he does not

possess or will not enforce any particular fundamental right, cannot create an estoppel against him in that or any subsequent proceeding. Such a concession, if enforced, would defeat the purpose of the Constitution. Were the argument of estoppel valid, an all-powerful State could easily tempt an individual to forego his precious personal freedoms on promise of transitory, immediate benefits.....

7. As a matter of fact, the issue in the instant writ application is with regard to reservation and its purpose which has been dealt in detail in the case of *Indra Sawhney v. Union of India* reported in 1992 Supp (3) SCC 217 wherein at paras 146, 147 & 155, the Hon'ble Apex Court has laid down the law as under:

146. The basic policy of reservation is to off-set the inequality and remove the manifest imbalance, the victims of which for bygone generations lag far behind and demand equality by special preferences and their strategies. Therefore, a comprehensive methodological approach encompassing jurisprudential, comparative, historical and anthropological conditions is necessary. Such considerations raise controversial issues transcending the routine legal exercise because certain social groups who are inherently unequal and who have fallen victims of societal discrimination require compensatory treatment. Needless to emphasize that equality in fact or substantive equality involves the necessity of beneficial treatment in order to attain the result which establishes an equilibrium between two sections placed unequally.

147. It is more appropriate to recall that "There is equality only among equals and to equate unequals is to perpetuate inequality.

155. The above illustration and analogies would lead to a conclusion that there is an ocean of difference between a well advanced class and a backward class in a race of open competition in the matters of public employment and they having been placed unequally, cannot be measured by the same yardstick. As repeatedly pointed out, it is only in order to make the unequals equal, this constitutional provision, namely, clause (4) of Article 16 has been designed and purposely introduced providing some preferential treatment to the backward class.....

8. Having regard to the aforesaid facts and circumstances of this case coupled with the settled proposition of law, the information given by the JPSC through mail dated 31.07.2024 regarding Civil Judge (Junior Division) Regular Advertisement No.22/2023 P.T. result, whereby it has been informed that the Petitioner has since claimed no reservation, so JPSC has considered the same as unreserved, deserves to be, and is, hereby, quashed and set aside.

34. Learned Counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in case of **Ram Kumar Gijroya v Delhi Subordinate Services Selection Board and**

Another (Supra), wherein, the Hon'ble Court has held the following:

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 Pushpa³. 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 Sawhney² has been extracted in Pushpa³ along with the speech delivered by Dr Ambedkar in the Constituent Assembly and reads thus: (Pushpa case³, 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'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, SCC pp. 433-34, para 251)"

16. *In Pushpa, relevant paragraphs from Tej Pal Singh¹ have also been extracted, which read thus: (Pushpa case³, 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 fight 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*³, relevant portion from the judgment of *Valsamma Paul* cases 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 cases, 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*³ 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 Pauls* 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 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 Pauls*. Therefore, the impugned judgment and order¹ 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.

35. In view of the cumulative facts and circumstances mentioned hereinabove, this Court is of the opinion that rejection of the candidature of the petitioner on the alleged ground of not having the caste certificate issued on basis of her father at the time of filing up the application form is arbitrary

as the petitioner has been made to suffer on account of inaction and error on the part of State authorities.

36. Admittedly, the JPSC has not rejected the candidature of the petitioner for not having the requisite caste certificate in a proper format before the last date of filling-up the application form, hence, all the judgments relied upon by the respondents cannot be made applicable in the facts and circumstances of this case as in all in those judgments, the issues which were dealt was regarding the non-submission of the caste certificate in a proper format or delay in submission of the caste certificate in a proper format after the cut-off date.

37. There is no dispute regarding the submission of the caste certificate in a proper format within the cutoff date, rather the only dispute raised by JPSC is regarding the issuance of the caste certificate on husband's name, which might have cast doubt upon JPSC regarding the belongingness of original caste of the petitioner as whether she is claiming the benefit of reservation only on the basis of her husband or not. This doubt has been answered by submission of the caste certificate issued on the basis of the father's name having the same permanent address of Jharkhand.

38. There is also no dispute about the caste of the petitioner and entitlement based on the said caste certificate, the subsequent caste certificate relates back to the date when

the first caste certificate was filed as nothing has changed except in place of her husband, father's name has been incorporated. Admittedly, there is no other change in the caste certificate.

39. Hence, due to mistake committed on the part of caste issuing authority, the candidate cannot be held liable and punished even after scoring higher marks than the last selected candidate in her category.

40. In light of the discussion made herein above, the respondent- JPSC is directed to consider the candidature of petitioner for appointment by making necessary recommendation to State Government within the period of 8 weeks and upon the receipt of such recommendation made by JPSC as directed above, the respondent- State is directed to issue appointment letter to the petitioner within a further period of 4 weeks.

41. Accordingly, the instant writ application stands allowed. Pending I.A.s, if any, also stands disposed of.

(Deepak Roshan, J.)

Dated:12/08/2026
Amardeep/
A.F.R
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14.08.2026