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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9958/2023

J. VINUTHA

..... Petitioner

Through: Mr.Archit Upadhayay, Mr.Shubham
Mishra and Mr.Vaibhav Shahi,
Advocates alongwith petitioner

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES - AIIMS &

ANR.

..... Respondents

Through: Mr.V.S.R. Krishna and
Mr.V.Shashank Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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31.07.2023

CM APPL. 38359/2023 (Exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 9958/2023 & CM APPL. 38358/2023 (Stay)

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of petitioner seeking the following reliefs:-

“a. set aside the rejection of the candidature of the Petitioner by the Respondents from OBC Category to Unreserved Category during the selection process for the post of Senior Residents/Senior Demonstrators;

b. declare the subsequent scrutiny done by the Respondents,

after the issuance of admit card and conducting Computerized Examination (Stage-I), as illegal and null & void;

c. direct the Respondents to allow the Petitioner to participate in the Interview (Stage-II) which is scheduled on 02.08.2023;

d. direct the Respondent to accept the Certificates dated 22.06.2023 and 20.07.2023;

e. direct the Respondents to disclose the marks scored in Computerized Examination (Stage-I) as well as the rank of the Petitioner;

f. direct the Respondents to disclose the marks and rank of all the candidates who have appeared in the Computerized Examination (Stage-I)...”

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had applied for the post of Senior Resident in the Conservative Denistry & Endodontics. The petitioner, being a member of OBC (NCL) Category, had applied for the only seat reserved for the OBC Category for July 2023 Session in the respondent Hospital/Institution for which she had submitted her Caste Certificate while filling her application form through online portal.

3. It is submitted that vide email dated 20th July, 2023, the petitioner was communicated by the respondents that the OBC caste certificate issued by the Zonal Deputy Tahsildar, Nirlgiris, Tamil Nadu, was not as per the format prescribed in the prospectus of the respondents. Learned counsel for the petitioner referred to the copy of the prospectus, which is appended as Annexure P-1 to the petition.

4. It is submitted that upon getting the intimation by the respondents, the petitioner again submitted her OBC Caste Certificate as per the format prescribed in the prospectus of the respondents on the very same date i.e. 20th July, 2023, through online portal. However, on 21st July, 2023, the petitioner got the communication from the respondents regarding the rejection of the said Caste Certificate uploaded online by the petitioner. The said communication is appended as Annexure P-9 to the petition.

5. Learned counsel appearing on behalf of petitioner submitted that the petitioner had uploaded entire documents along with the application online and after scrutiny, the respondents/concerned authority issued the admit card, appended as Annexure P-6 to the petition, to her on 7th July, 2023 for the Recruitment Test (Stage-1), which was scheduled to be held on 15th July, 2023. Subsequently, the petitioner appeared for the Recruitment Test (Stage-1) conducted on 15th July, 2023. Thereafter, the result of the said Recruitment Test (Stage-1) was declared by the respondents on 22nd July, 2023. However, the marks and ranks scored by the candidates, including the petitioner, were concealed by the respondents.

6. It is submitted that, thereafter, the petitioner received the communication from the respondents that since the OBC Caste Certificate submitted by the petitioner was not in the prescribed format, her result could not be declared and her candidature shall be considered only in Unreserved (UR) Category as per the Cut-off Rank under the merit list for Unreserved Category.

7. It is further submitted that it is an admitted fact that the petitioner belongs to OBC Category and the Certificate to this effect has been issued

by the Zonal Deputy Tahsildar, Nirlgiris, Tamil Nadu, i.e., the competent authority of the State. It is also submitted that it is not the case of the respondents that the Certificate submitted by the petitioner is fake or forged.

8. It is also submitted that after receiving the information from the respondents on 20th July, 2023, the petitioner had submitted the OBC Caste Certificate, issued by the competent authority, online on the very same day, as per the format prescribed in the prospectus of the respondents. However, the same was also rejected by the respondents vide the impugned communication dated 21st July, 2023 and the reason mentioned for rejection was that the OBC Certificate was submitted after the Cut-Off date i.e. 28th June, 2023.

9. It is submitted that the Interview (Stage-II) is scheduled to be held on 2nd August, 2023 and if the petitioner is not allowed to appear in the interview it shall cause an irreparable loss to her as she is a bright candidate.

10. For strengthening his arguments, learned counsel appearing on behalf of petitioner relied upon several judgments passed by the Hon'ble Supreme Court and different High Courts wherein it has been held that candidature of a person belonging to OBC or Scheduled Caste Category shall not be rejected on the sole ground that their Caste Certificate is not in the prescribed form.

11. Therefore, it is prayed that the rejection of the petitioner's candidature may be set aside and in the interregnum, the petitioner be permitted to appear for the Interview (Stage-II).

12. *Per contra*, the learned counsel for the respondents appearing on advance notice, vehemently opposed the averments made by learned

counsel for the petitioner and submitted that the respondents have rejected the OBC Certificate vide email dated 21st July, 2023 which was submitted by the petitioner after the Cut-Off date since the said Certificate was not as per the format prescribed in the prospectus of the respondents.

13. It is further submitted that the petitioner had submitted the first OBC Certificate which was not as per the prescribed format, and the second certificate uploaded by the petitioner online was submitted after the Cut-Off date. Therefore, the respondents rejected the Certificate submitted by the petitioner.

14. It is also submitted that there is no force in the argument advanced by learned counsel for the petitioner that the petitioner was allowed to appear in the Recruitment Test (Stage-1) after scrutinizing and verifying all the documents submitted by her online. It is submitted that the admit card was issued on the provisional basis and appearing in the exam on provisional basis does not create the right to candidate as claimed by the petitioner. Hence, the instant petition may be dismissed.

15. Learned counsel for the respondents, while opposing the petition, also prayed for some time to file counter affidavit.

16. Heard learned counsel for the parties and perused the record including the impugned emails dated 20th July, 2023 and 21st July, 2023.

17. A perusal of the email dated 20th July, 2023, makes it clear that the Certificate submitted by the petitioner online was rejected on the ground that the same was not as per the prescribed format as provided in the prospectus. *Vide* email dated 21st July, 2023, the proper Certificate re-submitted by the petitioner was rejected on the ground that it was submitted

after the Cut-Off date.

18. There is no dispute to the fact that the petitioner belongs to the OBC Category, as she has been issued the Certificate by the competent authority and even the respondents have not disputed the veracity of the Certificate. It is also an admitted fact that the petitioner has appeared in the Recruitment Test (Stage-I) and the respondents had issued her the admit card on provisional basis.

19. *Prima facie*, this Court finds force in the arguments advanced on behalf of the petitioner that the candidature of the petitioner for the Reserved Category post may not be rejected on the sole ground that the Caste Certificate of the petitioner was not in accordance with the prescribed format, especially when the same was issued by an authorised and competent authority.

20. Various High Courts of this Country and even the Hon'ble Supreme Court have time and again reiterated that a hyper-technical approach need not be taken while considering the Caste Certificate of person. This Court also aligns with the opinion that an organisation need not enter into the rigid requirements and technicalities so much so that the interest of citizens is hampered.

21. Therefore, keeping in view the facts and circumstances and in the interest of equity and justice, this Court is of the view that the matter requires consideration and is inclined to grant the interim prayer made on behalf of the petitioner, in the interregnum.

22. Accordingly, the respondents are directed to permit the petitioner to appear in the Interview (Stage-II) which is scheduled to be held on 2nd

August, 2023.

23. Let counter affidavit be filed within three weeks. Rejoinder, thereto, if any be filed within two weeks thereafter.

24. List on 4th September, 2023.

CHANDRA DHARI SINGH, J

JULY 31, 2023

Dy/ms

[Click here to check corrigendum, if any](#)