

(2016) 07 JH CK 0050

In the Jharkhand High Court

Case No : L.P.A No. 466 of 2015 (Against the judgment and order dated 15.07.2015 passed in W.P(S) No. 1936/2015)

Mosrat Ziya Tara

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 25-07-2016

Acts Referred:

Citation : (2016) 4 AIRJharR 16 : (2016) 4 JBCJ 45 : (2016) 4 JLJR 290

Hon'ble Judges : Mr. Virender Singh, CJ. and Mr. Shree Chandrashekhar, J.

Bench : Division Bench

Advocate : Mr. Rajendra Krishna, Mr. Ashok Kumar Yadav with Mr. Ashish Priyadarshi and Mr. Amit Sinha, Advocates, for the Appellant; Mr. L.C.N. Shahadeo, G.P. IV, Mr. S.K. Gautam, J.C to G.P IV, for the State; Mr. A.K. Sinha, Senior Advocate, Mr. Kumar Sundaram, Adv

Final Decision : Allowed

Judgement

Virender Singh, C.J.—Appellant was the writ petitioner. She sought quashing of the appointment of respondent No.5 as Civil Judge (Junior Division) 2015 Batch under BCI Category asserting that his appointment was illegal and has been extended undue benefit by Controller of Examination, Jharkhand Public Service Commission by allowing him to be interviewed as BCI Category Candidate whereas he was BCII Candidate and cleared his preliminary and Mains Examination in that category only. After losing her battle in the Writ Court for a direction to the respondents for inclusion of her name as successful candidate in the merit list in BCI Category, she has now preferred the present Letters Patent Appeal, which is at Admission stage. We with the consent of learned counsel for both the sides, take it on Board for its final disposal.

2. Admit.

3. The process of appointment of Civil Judge (Junior Division) was initiated by the Department of Personnel, Administrative Reforms and Rajbhasha,

Government of Jharkhand by sending requisition to the Jharkhand Public Service Commission (JPSC), vide letter no. 4118 dated 13.05.2013, pursuant thereto, Advertisement No. 04/2013 was issued by JPSC inviting applications for appointment on 116 posts of Civil Judge (Junior Division). The appellant submitted her application under BCI category and respondent no. 5 submitted his application under BCII category. Both were issued admit cards under their respective categories and they appeared in P.T. examination, which was held on 27.04.2014. In the result of P.T. examination which was published on 26.05.2014, the respondent no. 5 was declared successful under BCII category. The appellant when noticed from the result published on the website of JPSC that the cutoff marks for BCI category was 46 whereas, she had obtained 72 marks in P.T. examination, upon her enquiry from the JPSC she was informed that she was treated as a General category candidate. She then submitted a representation on 04.06.2014 before the Controller of Examination for declaring her result under BCI category however, it was rejected on 16.06.2014, in terms of the advertisement and she was treated as General category candidate. Constrained, the appellant approached this Court in W.P.(S) No. 2826 of 2014 seeking a direction upon the respondent-JPSC to permit her to appear in the Mains examination for Civil Judge (Junior Division). The writ petition was allowed vide order dated 07.07.2014 and the appellant was permitted to appear in the Mains examination as BCI candidate which was held on 19.07.2014. Both the appellant as well as the respondent no. 5 were declared successful in the Mains examination in their respective categories and they were directed to appear before the Interview Board. The respondent no. 5 appeared for interview on 24.01.2015 and the appellant was interviewed on 25.01.2015. In the meantime, the appellant received notice in L.P.A. No. 311 of 2014 which was filed by JPSC challenging the order passed in W.P.(S) No. 2826 of 2014. The Letters Patent Appeal was finally disposed of on the statement made on behalf of JPSC that the appellant did not make the final selection list. The final selection list was put on website of JPSC on 13.02.2015, from where the appellant could gather that the last selected candidate under BCII candidate had secured 267 marks whereas, the respondent no. 5 had secured only 250 marks. However, the respondent no. 5 was declared successful under BCI category, for which the cutoff marks was 239. Alleging illegality in preparation of the final result and asserting that the respondent no. 5 has been adjusted/selected under BCI category by giving extraordinary benefit against the law, the appellant approached this Court in W.P. (S) No. 1936 of 2015.

4. The respondent-JPSC opposed the writ petition by filing counter-affidavit. It was pleaded that the writ petitioner did not submit her caste certificate in "prescribed proforma" along with the application form for claiming reservation under BCI category and the caste certificate submitted by her was valid for appointment on the posts under Government of India and not for present examination and as such, her candidature was considered under General category.

5. The respondent no. 5 was impleaded as a party-respondent in the writ proceeding vide order dated 22.05.2015. He has also contested the writ petition by filing a separate counter-affidavit. The respondent no. 5 took a stand that on the date of interview i.e. on 24.01.2015, he appeared before the competent authority for verification of original documents and during verification when it was detected that the caste certificate submitted by him does not specifically indicate to which category he belongs viz; BCI or BCII and upon verification when it was confirmed that he belongs to BCI category, he submitted the application for permission to appear in the interview as a BCI candidate. Denying the allegations that due to his selection, the appellant was denied appointment, respondent no. 5 asserted that he has secured 250 marks whereas, cutoff marks for BCI candidates was 239. It was pleaded that mere confirmation of the fact by the JPSC or rectification of mistake cannot be said to be an illegality on the part of JPSC. It was further pleaded that no illegality was committed by JPSC and only a bona fide and inadvertent error committed by the answering respondent (Respondent No.5) was rectified by the JPSC, as soon as, the same was brought to its notice.

6. The appellant filed rejoinder affidavit reiterating that the caste certificate submitted by respondent no. 5 is not in "Prapatra-K" which is required under the advertisement and therefore, it should not have been accepted by JPSC. Claiming serious prejudice caused to several other candidates besides the appellant, it was pleaded that change of category of respondent no. 5 smacks of malafide and arbitrariness.

7. Contention of the Appellant :-

(i) The respondent no. 5 gave a false declaration, in consequence thereof his application form was liable to be rejected, in terms of the advertisement.

(ii) The respondent no. 5 has taken a false plea in his application dated 24.01.2015 which disentitles him for any equitable relief.

(iii) Change of category from BCII to BCI of respondent no. 5 is arbitrary, illegal and malafide and it amounts to fraud.

(iv) The Controller of Examination has no authority to permit change in category of respondent no. 5 that too on the date of interview itself.

(v) The learned Writ Court committed error in ignoring the apparent illegality committed by the Controller of Examination.

(vi) The learned Writ Court erred in law in rejecting the challenge to appointment of respondent no. 5 on the ground that the appellant herself has failed to qualify under BCI category.

8. Contention of Respondent-JPSC :-

(i) No illegality was committed by the Controller of Examination and in fact, the decision of the Controller of Examination has been approved by the Commission.

(ii) No new document was accepted by the Commission and only a mistake committed by respondent no. 5 has been corrected.

(iii) The candidature of the appellant was liable to be rejected on the ground that requisite caste certificate in prescribed proforma was not submitted by her.

(iv) No illegality has been committed during the process of selection which was transparent and nondiscriminatory.

9. Contention of Respondent No. 5 :-

(i) It is not denied that respondent no. 5 belongs to BCI category and while so, his selection under the said category cannot be faulted.

(ii) The Commission has permitted respondent no. 5 to correct the mistake which was inadvertent and the declaration by a candidate is not always conclusive.

(iii) The caste certificate can be accepted even after the cutoff date and such a practise would be in consonance with the reservation policy of the Government.

(iv) Order passed by the Writ Court in W.P.(S) No. 1936 of 2015 is binding on the Commission and, if a benefit can be extended to the appellant, there is no illegality if such a benefit has been extended to respondent no. 5.

Discussion :-

10. Re: Misrepresentation/False Declaration

Relying on a decision in "A.P. Public Service Commission v. Koneti Venkateswarulu & Ors.", reported in (2005) 7 SCC 177, Mr. Rajendra Krishna, the learned counsel for the appellant contended that JPSC acted illegally in the matter and accepted the application form of respondent no. 5 which suffers from misrepresentation and contains a false declaration by the candidate. Per contra, Mr. Anil Kumar Sinha, the learned Senior Counsel for respondent no. 5 submitted that merely because respondent no. 5 mistakenly marked the wrong box in caste category that would not change the fact that he belongs to "Kumhar" caste and since it is not disputed that he belongs to the said caste, respondent no. 5 cannot be held guilty of misrepresentation or false declaration.

11. It is not in dispute that the appellant submitted her application under BCI category and the respondent no. 5 applied under BCII category. The relevant Column 4(ka) in the application form submitted by both the candidates bears testimony to this fact. The appellant along with her application attached OBC caste certificate besides, educational qualification certificate and domicile certificate. The OBC certificate submitted by the appellant was issued by the Sub-Divisional Officer, Godda on 06.01.2014 affirming that the appellant belongs to Momin community. The said certificate is in a printed proforma which mentions 19 Government Resolutions Published in the Gazette of India Extraordinary [Appendix iv]. The caste certificate issued to the appellant declares that she does not belong to the persons/sections (Creamy Layer) mentioned in Column 3 of

Schedule to different OMs issued by Government of India. The respondent no. 5 applied under BCII category by marking relevant box in Column 4(ka) of the application form. He has also submitted caste and domicile certificates besides, other certificates. The caste certificate dated 23.05.2012 issued by the Executive Magistrate, Dhanbad Sub-Division declares him under Most Backward Caste "vR;ar fiNM+k oxZ". His subcaste has been mentioned as "Kumhar". Neither the advertisement nor any other material produced on record mentions Most Backward Caste as a reserved category under Advertisement No. 04/2013. The list of 114 successful candidates forwarded to the Government of Jharkhand by the JPSC also discloses only four reserved category viz; SC, ST, BCI and BCII.

12. General information/instruction under Clause 16(ii) in Advertisement No. 04/2013 cautioned the candidates; in case the application form is not correctly filled up, it shall be rejected and no representation in this regard shall be entertained. Clause 16(iii) stipulates that the caste certificate issued by the authority lower in rank to the Sub-Divisional Officer is not valid. Relevant extracts from Clause 16 are reproduced below:

16- lkekU; tkudkj%&

(I) -----

(ii) vkosnu i= fucaf/kr Mkd }kjk ijh{kk fu;a=d >kj[k.M yksd lsok vk;ksx] ldqZyj jksM] jkaph & 834001 ds irs ij bl izdkj Hkstuk lqfuf"pr djsa fd fnukad&06-01-2014 dks la;/k 5-00 cts rd vo"; izkIr gks tk;sa fyQkQk ds mij cM+s ,oa Li"V v{kjksa esa "Civil Judge (Junior Division) gsrq vkosnu vo"; vafdr djsaA Hkjk gqv vkosnu fucaf/kr Mkd ls izsf"kr djus ds iwoZ ;g lqfuf"pr gksa ysa fd vkus vkosnu i= ds lHkh dkWye lgh&lgh Hkjk gS rFkk lHkh "kS{kf.kd izek.k&i=ksa tUe frfFk izek.k i= lfgr tkfr izek.k i= ,oa vf/koDrk ds :i esa fuca/ku izek.k&i= dh Nk;k izfr jktif=r inkf/kdkjh ls vfHkizekf.kr djkdj layXu fd;k x;k gS vU;Fkk vkosnu vLohd`r dj fn;s tk;saxs rFkk okn esa fdLh izdkj ds vuqjks/k Lohdkj ugha gksaxsA

(iii) vkj{k.k dk ykHk dsoy >kj[k.M jkT; ds LFkk;h fuoklh dks >kj[k.M jkT; ds l{ke Lrj ds inkf/kdkjh vFkkZr~ vuqe.My inkf/kdkjh ls U;wu Lrj ds inkf/kdkjh }kjk fuxZr tkfr izek.k i= ekU; ugha gksxkA >kj[k.M jkT; ds ckgj ds tkfr izek.k i= /kkjd vH;FkhZ ds fy, vkj{k.k ds ykHk gsrq fd;k x;k nkok vuqekU; ugha gksxkA

(iv) >kj[k.M ljdkj }kjk ykxw v|ru vkj{k.k laca/kh fu;e izHkkoh gksaxsA vU; jkT;ksa ,oa dsUnz"kkflr izns"kkksa ds mEehnokj pkgos os fdLh Hkh tkfr ds gksa] mUgsa vkj{k.k dk ykHk ugha feysxkA >kj[k.M jkT; ds mEehnokj] tks vuqlwfr tkfr@tutkfr@fiNM+k oxZ&1@tks fiNM+k oxZ&11 ds gSa] dks vkj{k.k dk ykHk izkIr djus ds fy, >kj[k.M jkT;UrxZr vuqe.My inkf/kdkjh ls U;wu Lrj ds inkf/kdkjh }kjk fuxZr tkfr izek.k i= ekU; ugha gksxkA >kj[k.M jkT; ds xBu ds ckn dk fu/kkZfjr fofgr izi=&1 vFkok izi=&11 esa fuxZr tkfr izek.k i= dh Nk;k&izfr jktif=r inkf/kdkjh ls vfHkizekf.kr djkdj vkosnu i= ds lFk layXu djuk vfuok;Z gksxkA fu/kkZfjr fofgr izi=&1 vFkok izi=&11 vk;ksx ds osclkbV www.jpssc.gov.in ij miyC/k jgsxkA

English Translation

16. General Information:

(i)

(ii) The candidates must ensure that application form sent through registered post at the address "Examination Controller", Jharkhand Public Service Commission, Circular Road, Ranch-834001, is received by 5:00 O'clock in the evening of 06.01.2014. On the envelope "Application for the Civil Judge (Junior Division)" must be written in bold and clear letters. Before sending duly filled application form through registered post, it must be ensured that all the columns of application form have been correctly filled up and photocopies of all educational certificates (including date of birth certificate), caste certificate and enrolment certificate as an advocate, after getting it duly attested by a Gazetted Officer have been attached, otherwise application will be rejected and no request for reconsideration shall be entertained later on.

(iii) The benefit of reservation to the permanent residents of the State of Jharkhand shall not be admissible on the basis of caste certificate issued by an officer below the rank of the competent authority of the State of Jharkhand, i.e., Sub-Divisional Officer. The claim for benefit of the reservation to the candidates holding caste certificate outside the State of Jharkhand shall not be admissible.

(iv) The latest Rules enforced by Government of Jharkhand relating to reservation shall be applicable. The candidates belonging to other States and Union territories, whichever caste they belong to, shall not be given the benefit of reservation. The candidates of the State of Jharkhand, who belong to Schedule Caste/Schedule Tribe/Backward Caste-I/Backward Caste-II, for taking benefit of reservation, the caste certificate issued by an officer below the rank of Sub-Divisional Officer of the State of Jharkhand, shall not be admissible. It shall be mandatory to enclose copy of caste certificate issued in the prescribed Format-I or Format-II which was laid down after the formation of the State of Jharkhand after getting it duly attested by a Gazetted Officer along with the application form. The prescribed Format-I or Format-II shall remain available at the website of the Commission www.jpsc.gov.in.

13. Not only that, the candidates were required to give a declaration that the informations furnished by them are true and correct. In fact, the application form itself contained declaration which reads as under:

?kks"k.kk i=

1 - eSa ,rn~ }kjk ?kks"k.kk djrk@djrj gwWa fd uSfrd uhprk (Moral turpitude) Is lacaf/kr fdlh vkijkf/kd ekeys esa eSa lafyIr ugha gwWa ;k lacaf/kr ugha gwWaA

2 - eSa ?kks"k.kk djrk@djrj gwWa fd tgkWa rd esjh tkudkj vkSj fo"okl gS bl vkosnu esa fn, x, lHkh fooj.kh lgh ,oa lR; gS vkSj eSa vgZrk/kkj vkSj gwWaA

3 - eSaus vkosnu i= ds funsZ"kksa dks /;kuiwoZd i<+ fy;k gS vkSj eSa ,rn~ }

kjk ?kks"k.kk djrk@djrH gwWa fd eSa rn~uq:i fu/kkZfjr vk;q lhek]
"kS{kf.kd ;ksX;rk] vkj{k.k vkfn ls lEc) ik=rk dh lHkh "krksZa dks iwjk djrk@djrH
gwWaA

4- eSa ;g Hkh ?kks"k.kk djrk@djrH gwWa fd eSa bl ckr ls voxr gwWa fd esjs }
kjjk mi;qZDr nh xbZ fdLH Hkh lwpuK ds xyr ;k vLR; ik;s tkus ij esjh vH;fFkZrrk
jn~n gks tk,xh pkgs esjk p;u ijh{kK ds vk/kkj ij D;kSa u gks x;k gksA

LFkku%

fnukad% vkosnd dk gLrk{kj

English Translation

Declaration

1. I hereby declare that I am not involved in or related with any criminal case involving moral turpitude.
2. I hereby declare that all the informations given in this application are true and correct to the best of my knowledge and belief and I am eligible.
3. I have carefully read the instructions given in the application form and I hereby declare that I accordingly fulfil all the conditions of eligibility regarding prescribed age limit, educational qualification, reservation etc.
4. I also hereby declare that I am aware of this fact that in the event of any information being found false or incorrect, my candidature shall be cancelled despite the fact that my selection has been made on the basis of examination.

Place:

Date: Signature of the applicant

14. In "A.P. Public Service Commission" (supra), the candidates were required to furnish information as to previous employment in column 11 and a declaration in the format vide Annexure-III affirming that he/she is not working elsewhere was required to be supplied by an applicant. The advertisement issued by the A.P. Public Service Commission specifically informed the candidates that any false/wrong information or suppression of material information would lead to cancellation of the candidature. However, the candidate had left column 11 pertaining to previous employment blank and he declared that he was not working in any Government Department/Quasi-Government/Public sector/Private sector. Subsequently, it was detected that the applicant was employed and working as a Teacher. The plea taken by him before the Writ Court was that he inadvertently filled up and signed Annexure-III of the application form which was intended only for the candidates seeking fee exemption in case of unemployed youth in the age group of 1835 and thus, the declaration was inconsequential. The Hon'ble Supreme Court dealt with the plea of inadvertence thus;

7. ".....We are also unable to accept the contention that it was inadvertence

which led the first respondent to leave the particulars in column 11 blank and make the declaration of non-employment in Annexure III to the application. The application was filled on 24-7-1999, the examination was held on 24-10-1999, and the interview call was given on 31-1-2000. At no point of time did the first respondent inform the appellant Commission that there was a bona fide mistake by him in filling up the application form, or that there was inadvertence on his part in doing so. It is only when the appellant Commission discovered by itself that there was suppressio veri and suggestio falsi on the part of the first respondent in the application that the respondent came forward with an excuse that it was due to inadvertence. That there has been suppressio veri and suggestio falsi is incontrovertible. The explanation that it was irrelevant or emanated from inadvertence, is unacceptable. In our view, the appellant was justified in relying upon the ratio of *Kendriya Vidyalaya Sangathan* and contending that a person who indulges in such suppressio veri and suggestio falsi and obtains employment by false pretence does not deserve any public employment....."

15. In "*Kendriya Vidyalaya Sangathan & Ors. v. Ram Ratan Yadav*", reported in (2003) 3 SCC 437, the appointee filled up the attestation form suppressing the information regarding his prosecution/conviction for an offence and whether any case was pending against him in any court at the time of filling up the attestation form. He also certified that the information given by him was correct and complete to the best of his knowledge, although a criminal case against him was pending at that time. The Hon"ble Supreme Court dealt with the issue in paragraph no. 12 of the reported judgment, in these words;

12. "The object of requiring information in columns 12 and 13 of the attestation form and certification thereafter by the candidate was to ascertain and verify the character and antecedents to judge his suitability to continue in service. A candidate having suppressed material information and/or giving false information cannot claim right to continue in service. The employer having regard to the nature of the employment and all other aspects had the discretion to terminate his services, which is made expressly clear in para 9 of the offer of appointment. The purpose of seeking information as per columns 12 and 13 was not to find out either the nature or gravity of the offence or the result of a criminal case ultimately. The information in the said columns was sought with a view to judge the character and antecedents of the respondent to continue in service or not. The High Court, in our view, has failed to see this aspect of the matter. It went wrong in saying that the criminal case had been subsequently withdrawn and that the offences, in which the respondent was alleged to have been involved, were also not of serious nature. In the present case the respondent was to serve as a Physical Education Teacher in *Kendriya Vidyalaya*. The character, conduct and antecedents of a teacher will have some impact on the minds of the students of impressionable age. The appellants having considered all the aspects passed the order of dismissal of the respondent from service. The Tribunal after due consideration rightly recorded a finding of fact in upholding the order of dismissal

passed by the appellants. The High Court was clearly in error in upsetting the order of the Tribunal. The High Court was again not right in taking note of the withdrawal of the case by the State Government and that the case was not of a serious nature to set aside the order of the Tribunal on that ground as well. The respondent accepted the offer of appointment subject to the terms and conditions mentioned therein with his eyes wide open. Para 9 of the said memorandum extracted above in clear terms kept the respondent informed that the suppression of any information may lead to dismissal from service. In the attestation form, the respondent has certified that the information given by him is correct and complete to the best of his knowledge and belief; if he could not understand the contents of columns 12 and 13, he could not certify so. Having certified that the information given by him is correct and complete, his version cannot be accepted. The order of termination of services clearly shows that there has been due consideration of various aspects. In this view, the argument of the learned counsel for the respondent that as per para 9 of the memorandum, the termination of service was not automatic, cannot be accepted."

16. The appellant in the application form declared herself as BCI category candidate and she has submitted OBC caste certificate, a category which has subsequently been subdivided in BCI and BCII. During the course of argument, counsel for the parties agreed that BCI and BCII are under OBC. The respondent no. 5 declared himself under BCII category and he submitted a caste certificate of MBC. Only stand taken by the respondent-JPSC in the counter-affidavit filed before the Writ Court is that the caste certificate submitted by the appellant was not in "proper format" whereas, the caste certificate furnished by respondent no. 5 was gleefully accepted by JPSC.

17. At this juncture, the precise question crops up is, whether a candidate who belongs to BCI category, submits his application under BCII category and furnishes a caste certificate of MBC, is guilty of misrepresentation and false declaration or not, when he affirms that all the informations disclosed by him in the application form are true and correct. The declaration of the appellant in the application form cannot be said to be false. Of course, her caste certificate is not in proper format, the effect of which would be discussed at a later stage, however, format of caste certificate would not invite a conclusion of misrepresentation or false declaration. However, when the candidature of respondent no. 5 is examined in the light of Clause 16 to the advertisement and the declaration given by him, it must be held that he gave a false declaration in his application form.

18. The learned Senior Counsel for respondent no. 5 urged that the issue of misrepresentation and false declaration was not raised in the writ petition and pleadings on this issue is quite silent. This contention is an argument in desperation. The conditions/instructions to the candidates under Advertisement No. 04/2013 and the declaration which forms part of the application form are not the issues entirely alien to the present proceeding. In the present case, when the

respondent-JPSC as well as respondent no. 5 challenged the candidature of the appellant under BCI category before the Writ Court, it is open to the appellant to raise an issue which is a pure question of law. A selection process must proceed on the declared guidelines is imperative for rule of law and the conditions mentioned in the Advertisement/Brochure must be adhered to, is the law declared by Supreme Court. The appellant has pleaded at every stage that the application form of respondent no. 5 was liable to be rejected at the initial stage itself. Power of the Letters Patent Court is undoubtedly wider than power under Section 100 C.P.C. A Letters Patent Appeal is an appeal both on facts as well as on law and the Letters Patent Court can examine the facts of the case afresh. *Smt. Asha Devi v. Dukhi Sao & Anr.*", (1974) 2 SCC 492

19. The learned counsel for the JPSC contended that the application of appellant was also liable to be rejected for the reason that she did not submit caste certificate in "proper format". The appellant declared herself a BCI category and she submitted a caste certificate declaring her belonging to Momin community not within the Creamy Layer. By no stretch of imagination the declaration given by the appellant can be said to be a false declaration. Moreover, the appellant appeared in the Mains examination by the order of the Writ Court and in any case her challenge to the appointment of respondent no. 5 cannot be countered by throwing a challenge to her candidature.

20. Re: Jurisdiction of Controller of Examination:

The learned counsel for the appellant vehemently contended that there is no express provision authorising either the Commission or Controller of Examination to change the category of a candidate. The learned counsel for the JPSC has also failed to produce any rule/circular vesting the Commission/Controller of Examination with such powers. The learned Senior Counsel for respondent no. 5 however, contended that there is no illegality committed by Controller of Examination, if a mistake has been permitted to be corrected. Referring to order passed in W.P.(S) No. 2826 of 2014, the learned Senior Counsel submitted that the direction issued by the Writ Court not to take a super-technical view while examining the caste certificate is binding on the Commission and if in adherence to the Writ Court's order, the Controller of Examination permitted respondent no. 5 to appear in the interview as a BCI candidate, he has not committed any illegality.

21. The guidelines/instructions in Advertisement No. 04/2013 do not disclose a power either in the Commission or to Controller of Examination to change the caste category of a candidate at the fag end of the selection process. An authority exercises jurisdiction which can either be statutory or inherent. Appointments to the post of Civil Judge (Junior Division) and Civil Judge (Senior Division) are regulated under Jharkhand Judicial Service (Recruitment) Rules, 2004 which has been framed in exercise of the powers conferred by Article 234 read with Article 309 of the Constitution of India, after consultation with the High Court of Jharkhand. Under Rule 4, the Commission shall notify the number of

vacancies and it shall undertake the entire selection process, in consultation with the High Court. Rule 7 provides that whether it is desirable to have a Preliminary Written Entrance Test or not, would be a decision of the High Court. The High Court may also prescribe the syllabi for the Preliminary Test and the Mains examination and the Commission, in consultation with the High Court, may fix the minimum qualifying marks. Under Rule 8, the Commission shall invite applications from the intending candidates and on receipt of the applications process the same. The declaration in the application form is almost a reproduction of Rule 11 which provides that candidature of a candidate may be cancelled on the ground of misrepresentation and/or furnishing false information and if a candidate has been appointed, such appointment shall be liable to immediate termination. The Jharkhand Judicial Service (Recruitment) Rules, 2004 neither provides nor contemplates a power in the Commission to change caste category of a candidate irrespective of a declaration made by the candidate in the application form.

22. During the course of hearing, Mr. Sanjoy Piprawall, the learned counsel for JPSC produced photocopy of the proceeding of the Commission, to submit that the decision of Controller of Examination has been approved by the Commission. Factually, the submission does not appear to be correct. The Controller of Examination prepared a note-sheet on 28.01.2015 which was addressed to the Chairman, JPSC. Paragraph no. 16 of the note-sheet merely mentions that on the application of the candidate having Roll No. 41320913, he was selected under BCI category. The proceeding of the Commission records:

"Randomly selected the following Roll Numbers (Mains) and compared with the assessment chart in the grade-sheet (rank-wise) got authenticated by the Asst. Programmer/Dy. Controller of Examination and Controller of Examination and found correct. Result may be published."

23. The aforesaid proceeding does not reflect approval of the Commission to change of category of respondent no. 5, and even if it is assumed that the decision of Controller of Examination has been approved by the Commission, it would not validate the illegal change of caste category of respondent no. 5 from BCII to BCI. As noticed above, neither it was pleaded nor was any law brought to the notice of the Court which sanctions change of category of a candidate appearing in the examination of Civil Judge (Junior Division) by the Commission. To a pointed query to Mr. Piprawall, whether the Commission has adopted a similar procedure in any other case, the learned counsel, on instruction from Mr. A.K. Mishra, the Law Officer who was present in the Court, submitted that there is no other instance of change of category of a candidate at the time of interview. Though, this question is not significant for examining the jurisdiction of Controller of Examination/Commission, it assumes significance when bona fide of Controller of Examination is to be examined.

24. Obviously, the Controller of Examination cannot exercise any other power which the Commission has not been given. At every stage of appointment

consultation with the High Court is mandatory. The decision of the Controller of Examination to permit respondent no. 5 to appear in interview as a BCI candidate was not approved by the High Court and in fact, this fact was not even brought to the notice of the High Court. The proceeding dated 28.01.2015 forwarded by the Controller of Examination specifically records order of the High Court and instruction issued by the Registrar General in respect of two candidates having Roll Nos. 41321311 and 41321799 who were provisionally permitted to appear for interview.

25. Taking a leaf from the decision in "Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Anr.", reported in (2016) 4 SCC 754, the learned Senior Counsel for respondent no. 5 next contended that the respondent no. 5 who admittedly belongs to BCI category would have furnished a copy of the caste certificate at any stage and while so, there is no illegality in the permission granted by the Controller of Examination to the respondent no. 5 to appear in the interview under the said category.

26. In this context it is useful to reproduce what Earl of Halsbury, L.C. observed in "Quinn v. Leathem", reported in 1901 AC 495:

"Now before discussing the case of Allen v. Flood and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all."

27. More than half a century thereafter, Lord Morris explained the above principle more precisely in "British Rlys. Board v. Herrington", reported in (1972) 1 All ER 749 in these words:

"There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case."

28. A similar approach is found running through the judicial pronouncements in India also. In "Ambica Quarry Works v. State of Gujarat", reported in (1987) 1 SCC 213, it has been held that, "the ratio of any decision must be understood in the background of the facts of that case". A similar view is echoed in "Bhavnagar University v. Palitana Sugar Mill (P) Ltd.", reported in (2003) 2 SCC 111, wherein the Hon"ble Supreme Court has observed thus;

"It is also well settled that a little difference in facts or additional facts may make

a lot of difference in the precedential value of a decision."

29. Before advertizing to "Ram Kumar Gijroya's Case", the decision in "Tej Pal Singh & Ors. v. Government of NCT of Delhi", reported in 120 (2005) DLT 117 needs to be noticed because this case has been referred to in "Ram Kumar Gijroya" (Supra). In "Tej Pal Singh's Case", the grievance of the petitioners was that the respondents therein had declined to consider the caste certificate submitted after the cutoff date i.e., 30.06.1998. It was pleaded by the petitioners that the caste certificate was not issued by NCTD after 30.06.1998 and it was produced by them at the time of verification of documents by Board. The learned Single Judge held that if a person belongs to Schedule Caste, he is so by birth and not by acquisition of this category because of any other event happening at a latter 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. The view taken in "Tej Pal Singh" was reiterated in "Pushpa v. Govt. (NCT of Delhi)", ILR 2001 Del 298. Ram Kumar Gijroya's Case travelled up to Supreme Court because a Division Bench of Delhi High Court set-aside the order passed by the Writ Court directing the respondent to accept the OBC certificate of the candidate. The Hon"ble Supreme Court after noticing the decisions in "Tej Pal Singh Case" and "Pushpa Case" held that the decision in "Pushpa Case" is in conformity with the decisions in "Indra Sawhney v. Union of India", reported in 1992 Supp (3) SCC 217 and "Valsamma Paul v. Cochin University", (1996) 3 SCC 545. It is apparent that the facts and issues involved in case "Ram Kumar Gijroya"(Supra) were entirely different from the facts in the present case. The precise issue involved in "Ram Kumar Gijroya" is indicated in paragraph no. 2 of the said decision, which is extracted below:-

2. "The important question of law to be decided in these appeals is whether a candidate who appears in an examination under the OBC category and submits the certificate after the last date mentioned in the advertisement is eligible for selection to the post under the OBC category or not?"

30. The judgments relied by the learned Senior Counsel for respondent no. 5 do not lend support to his case. In view of specific stipulation in the advertisement and the declaration in the application form, the respondent no. 5 cannot wriggle out from the allegation of making false declaration.

31. The issue raised by the learned Senior Counsel with reference to order passed in W.P.(S) No. 2826 of 2014 directing the Commission to treat the appellant as a BCI candidate and not under General category has to be seen in the context of the facts pleaded by the appellant that she declared herself as a BCI candidate and she submitted a certificate which mentions her caste and declares her not falling under Creamy Layer. The said certificate was issued by the Sub-Divisional Officer who is authorised to issue caste certificate under the "Prescribed Proforma". The observation of the Writ Court that the Commission should not take a super-technical view was in the context of the aforesaid facts.

Such observation by the Court would not clothe the Controller of Examination to change category of a candidate who appeared in P.T. and Mains examination under BCII category to BCI category.

32. Re: Fraud

Mr. Rajendra Krishna, the learned counsel for the appellant contended that change in caste category of respondent no. 5 at the time of interview is a serious irregularity amounting to fraud however, the learned Writ Court erroneously rejected the said plea on the ground that there is no specific pleading in this respect. It is contended that at the initial stage, the appellant had no specific information however, after detecting the change in caste category of respondent no. 5, the appellant approached the Writ Court with a prayer for an enquiry into the matter. The change in caste category of a candidate cannot be permitted by the Commission/Controller of Examination still, the Controller of Examination changed the category of respondent no. 5, a manifest illegality on the face of record.

33. The Courts in India have pronounced that fraud is proved when it is shown that a false representation has been made, knowingly or without belief in its truth. Suppression of material facts has also been considered fraud on the opposite party as well as on the Court. "S.P. Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs. & Ors.", (1994) 1 SCC 1. *Suppressio Veri* and *Suggestio Falsi* are well-recognised principles which have been referred by the Courts for declining relief to a litigant. More than a century ago, Edward Coke, Chief Justice proclaimed, "Fraud avoids all judicial acts, ecclesiastical or temporal". And since then, this principle has been adopted not only in England where Lord Denning declared in "Lazarus Estates Ltd. v. Beasley", reported in (1956) 1 QB 702; "No judgment of a Court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything", but in India also.

34. In "Meghmala & Ors. v. G. Narasimha Reddy & Ors.", reported in (2010) 8 SCC 383, the Supreme Court has observed thus;

33. "Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of the courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due...."

35. The stand taken by respondent no. 5 before the Writ Court is reflected in the following paragraphs:

8. That it is stated and submitted that during filling up of the form published by JPSC, the answering Respondent inadvertently filled up his category as BCII category and his results of the PT and the Mains examinations were published in accordance with that, however after receiving a call letter for the viva voce he appeared before the concerned authority on 24.01.2015. It is pertinent to submit

before this Hon?ble Court that on the date of viva voce, the candidates were to appear before the concerned competent authority with all the original documents vis-a-vis passing certificate, LLB/LLM certificate, caste certificate etc. which were to be verified by the authority.

9. That during the verification/preparation of the checklist, since the category BCI or BCII was not mentioned upon the caste certificate of the answering Respondent, it was enquired as to which category he belongs to and upon enquiry it was found out by the answering authority and the candidate during the verification of the documents that the candidate does not belong to BCII category but in fact belongs to BCI category.

10. That after finding out that he in fact belongs to BCI category and not BCII category, the candidate wrote an application addressing it to the competent authority of JPSC and apprised him of the technicality as a result of which and only after the verification he was permitted to appear in the viva voce as a BCI candidate and therefore his result was published under the category of BCI.

14. That in reply to the statements made in paragraph 3 of the writ petition under reply, it is stated and submitted that the same are the questions of law formulated by the Petitioner which have no bearing upon the instant case. It is further humbly submitted that no discrimination has been made against the Petitioner and no illegality has been committed by the JPSC in publishing the result. Mere confirmation of a fact by the JPSC or rectification of their mistake cannot be said to be an illegality on the part of the JPSC.

36. The original records revealed that respondent no. 5 was initially required to appear in the interview on 16.01.2015 however, he did not appear in the interview on the said date. On the application submitted by him, the Controller of Examination passed an order on 22.01.2015 permitting him to appear in the interview on 24.01.2016. Not only that, on the date of interview when it was allegedly detected that the respondent no. 5 has "inadvertently" filled up the caste column incorrectly, he submitted an application for treating him as a candidate under BCI category and not under BCII category and on the same day, the Controller of Examination permitted him to appear in the interview in the second session of the day. The application submitted by respondent no. 5 is reproduced below:

To,

The Controller of Exam

Jharkhand Public Service Commission Ranchi

Sub: information regarding wrong entry in the application form of Civil Judge (Jr. Div)

Respected Sir,

Most humbly I would like to submit that in Column 4 of the Application for C.J.

(Jr. Div) relating to declaration of the category of the candidate, I have wrongly entered in BC II instead of BC I for lack of understanding on my part.

I, therefore, request you approve for the correction of above mistake and consider my candidature under B.C. I category and allowing me to appear for the vivavoce. I am enclosing my details.

I shall be highly obliged for this gracious act.

Your's Faithfully

Date: 24.01.2015 Chanchal Kumar

PT Roll no.41306962

Mains Roll no.41320913

Registration No.13407289

Father's Name-Dakshineswar

Kumar

37. The specific stand taken by the Commission in the counter-affidavit filed in the Writ Court is as under:

40. "That it is stated that on 24.01.2015, the respondent no. 5 appeared before the JPSC for his appearance before the interview board and at the time of verification of the testimonials of the respondent no. 5 it was found that respondent no. 5 has inadvertently ticked marked in the column of the application form against BCII category but in fact he belongs to BCI category and had also submitted caste certificate of BCI category with his application form and after detecting the said mistake, respondent no. 5 filed a representation before the Controller of Examination for correcting the aforesaid error and to allow him to appear in the interview as a BCI category candidate.

That it is stated that deponent after considering the representation of the petitioner, allowed the Respondent No. 5 to appear in interview as a BCI category candidate".

38. To recapitulate, respondent no. 5 declared himself a BCII candidate and appeared in the P.T. and Mains examination as a BCII candidate. He was declared successful in both P.T. and Mains examinations as BCII candidate, however, at no point in time he made a representation before the Commission for rectification of the alleged mistake committed by him while declaring himself as BCII candidate in the application form. The contention of respondent no. 5 that he could detect the mistake in the application form only when it was ascertained by JPSC that he belongs to the BCI category, is a blatant lie. The learned counsel for the appellant has rightly contended that respondent no. 5 has taken a false plea in his application dated 24.01.2015 seeking change in caste category. When the result of P.T. examination was published, it was known to all that respondent no.

5 has qualified in BCII category. Again, when the result of Mains examination was published, respondent no. 5 was shortlisted for interview under BCII category. Can respondent no. 5 feign ignorance and whether the stand taken by him is not an attempt by him to mislead the Court? Amid the controversy surrounding the power of Controller of Examination to change caste category of a candidate at the time of interview, the stand taken by the Controller of Examination is further weakened when the counsel for JPSC conceded that in the recent past there is no other instance Controller of Examination permitting change in caste category at the time of interview. Whether the Controller of Examination and respondent no. 5 acted in concert or not is really not relevant. What is relevant for the purpose of adjudicating the legality of selection of respondent no. 5 is the fact that the exercise of power by Controller of Examination which is not vested in him was absolutely uncalled for and wholly unwarranted.

39. There is another twist in the tale. While the respondent no. 5 took a position that he submitted caste certificate which, in the light of notification dated 18.08.2010 issued by the Government of Jharkhand, establishes that he belongs to BCI category, this fact was never brought to the notice of the Court that the caste certificate submitted by him is of Most Backward Caste which is not a reserved category in Advertisement No. 04/2013. Another significant aspect of the matter which was not disclosed in the counter-affidavit filed by JPSC is the date of certificate produced by respondent no. 5 in "proper format". The said certificate is dated 11.06.2015 whereas, the original documents of the candidates were to be verified at the time of interview itself. The recommendation forwarded by JPSC is dated 02.02.2015. Admittedly, on that day respondent no. 5 had not produced original caste certificate in "proper format".

40. The aforesaid events unerringly disclose that neither respondent no. 5 nor Controller of Examination disclosed all relevant and material facts to the Court. It is only after the original records were summoned by the Court vide order dated 09.05.2016, the falsity of plea taken by respondent no. 5 and suppression of material facts by Controller of Examination and respondent no. 5 have been exposed. In "S.P. Chengalvaraya Naidu Case", disagreeing with the High Court that "there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence", the Hon"ble Supreme Court held that, non-production and even non-mentioning of the release deed at the trial is tantamount to play fraud on the court. It was further held that a litigant who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital documents in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party.

41. Undoubtedly, selection of respondent no. 5 is foisted with misrepresentation and an attempt has also been made to play fraud upon the Court also.

42. At this stage, it needs to be clarified that even leaving the issue of fraud aside, there is another important factor which goes against respondent no.5. The chart produced by the JPSC indicates that there were 9 posts under BCI category and 7 posts for BCII candidates. The maximum marks obtained by the candidate under BCI category was 287 and the cutoff marks i.e., marks obtained by the candidate last selected in the said category was 239. The appellant has secured 238 marks. In BCII category, the maximum marks secured by the candidate was 282 and the cutoff marks was 267. Respondent no. 5 has secured 250 marks. The contention of the appellant is that if at all the respondent no. 5 can be permitted to take the examination, that would have been under General category and not as a Reserved category candidate. It is not in dispute that respondent no. 5 would not have succeeded under General category. Had the candidature of respondent no. 5 been considered under BCII category, in which he was selected in P.T. and Mains examinations, he would not have secured berth in the merit list. Whereas, if respondent no. 5 is not transported in BCI category, the appellant would make the grade in the merit list. So appellant has lost the berth because of the favour extended to respondent no.5 by the Controller of Examination of JPSC. In the aforesaid facts, appointment of respondent no. 5 cannot be sanctioned in law.

43. What troubles the Court most is the stage when application of respondent no. 5 was entertained and accepted by Controller of Examination. The chart produced by JPSC reveals that in BCII category in which total number of seats was less than BCI category, there were as many as 8 candidates who had secured more marks than respondent no. 5, ranging between 219 and 207. In fact, there were candidates who had secured 201, 200, 199 and 198 marks also. On the contrary, in BCI category there were only 2 candidates who secured more marks in Mains examination than respondent no. 5 and thus, change of category of respondent no. 5 from BCII to BCI has immensely benefited him. What was the reason which moved Controller of Examination to permit change in caste category of respondent no. 5 is really in the realm of speculation, but it is quite clear that it has been done intentionally and purposely.

Justice and Equity :-

44. Raising a bogey of "justice", the learned Senior Counsel for respondent no. 5 proclaimed that, "justice has been done to respondent no. 5". It is contended that technicality should not abort justice and the Court must be anxious to avoid injustice. It is further contended that equitable considerations require no interference with selection of respondent no. 5 under BCI category. Countering the plea of justice and equity raised on behalf of respondent no. 5, Mr. Rajendra Krishna, the learned counsel for the appellant submitted that it would be a historical mistake to sanction selection of respondent no. 5 in judicial service.

45. The answer to the plea of "justice and equity" raised on behalf of respondent no. 5 is not complicated rather, it is a simple one. No doubt, the entire concept of writ jurisdiction exercised by the High Courts is founded on equity and in the

words of Dr. A.S. Anand, J. (as his Lordship was then) "equity is not past the age of childbearing" C. Chenga Reddy v. State of A.P., (1996) 10 SCC 193, it is wellsettled that when it is found that the claim of a party is founded on false grounds, equity takes the backseat. In "A.P. State Financial Corpn. v. Gar Re-Rolling Mills, (1994) 2 SCC 647," the Hon"ble Supreme Court has observed as under,

18. "..... A court of equity, when exercising its equitable jurisdiction under Article 226 of the Constitution must so act as to prevent perpetration of a legal fraud and the courts are obliged to do justice by promotion of good faith, as far as it lies within their power. Equity is always known to defend the law from crafty evasions and new subtleties invented to evade law....."

46. The illegality collared around the selection of respondent no. 5 under BCI category clearly disentitles him to any equitable relief, rather it would be immensely inequitable to deny relief to the appellant. Rejecting the plea of equitable relief, in "K.G. Ashok & Ors. v. Kerala Public Service Commission & Ors.", reported in (2001) 5 SCC 419, in which case the applicants had submitted application for appointment to the post of Junior Health Inspector Grade II in more than one district, the Hon"ble Supreme Court has observed as under;

23. "Learned counsel for the appellants lastly submitted that as number of appellants had crossed the upper age limit and number of vacancies are available, without disturbing the already selected candidates, the appellants can be considered for selection on the basis of their placement in the merit list. In our view seeing the conduct of the appellants in making false declaration and applying in more than one district in contravention of the gazette notification, it is not possible to accede to their prayer even on equitable grounds."

Impugned Order :-

47. The appellant approached the Writ Court with the following prayers:

(A) For issuance of an appropriate writ or writs in the nature of certiorari for quashing of the final result for appointment of Jharkhand Judicial Services, Civil Judge (Junior Division) published vide letter dated 13.02.2015 issued under the signature of Secretary, Jharkhand Public Service Commission, Ranchi inasmuch as the final result published by the respondents is wholly illegal and without authority of law as the result of one of the candidate namely Chanchal Kumar having roll no. 41320913 has been published and finally selected under BCI Category although the said candidate belongs to BCII Category and his result for Civil Judge (Junior Division) P.T., 2014 and Civil Judge (Junior Division) Main Exam Result 2014 has been published under BCII Category as a consequence of which, petitioner who has secured only one marks less than the last selected candidate under BCI Category has been deprived of her right to appointment for the post of Jharkhand Judicial Services Civil Judge (Junior Division);

(B) For issuance of an appropriate writ, order or direction directing the

respondents to make an enquiry with respect to the illegality committed by the respondents while publishing the result of BCI Category and thereafter, a further direction be issued upon the respondents to issue appointment letter to the petitioner who was the next candidate from the last selected candidates under BCI Category inasmuch as the petitioner fulfils all other criteria for being selected for the post of Jharkhand Judicial Services Civil Judge (Junior Division);

(C) For issuance of such other writ, order or directions as this Hon'ble Court may think just and proper in the facts and circumstances of the case doing conscionable justice to the petitioner.

48. The learned Writ Court has declined relief to the appellant mainly on the ground that the selection of respondent no. 5 is not under challenge and as such the legality or otherwise of the selection of respondent no. 5 cannot be decided in the writ proceeding. The learned Writ Court further held that the writ petitioner has failed to plead any irregularity committed by the Commission so as to debar her from being selected.

49. The learned Writ Court clearly fell in error in holding that selection of respondent no. 5 is not under challenge. By the order of the Court respondent no. 5 was arrayed as a party-respondent in the writ proceeding, obviously keeping this in mind that if the plea raised by the appellant/writ petitioner is finally adjudicated in her favour it would affect respondent no. 5. The case built by the appellant is that she would have secured a place in the merit list if caste category of respondent no. 5 was not illegally changed at the time of interview. The respondent-JPSC and respondent no. 5, both have filed separate counter-affidavits and the application dated 24.01.2015 was before the Writ Court. In several paragraphs (23 to 28, 30, 32, 34, 36 & 38), the appellant has made serious allegations of illegality, irregularity, malafide and extraordinary benefit extended to respondent no. 5. Nothing more was required to plead that selection of respondent no. 5 was illegal. Moreover, in a case like this the litigant may not have knowledge of all the facts which were within the exclusive knowledge of JPSC and when a counter-affidavit is filed justifying the action of the authority, legality of such action must be adjudicated by the Court on the basis of affidavits filed by the parties. The story unfolded in the affidavits and the plea taken by the parties required adjudication on merits, which the learned Writ Court has erroneously declined. The learned Writ Court committed serious error in law in holding that legality or otherwise of the selection of respondent no. 5 cannot be decided in the writ petition. Secondly, the appellant secured less marks than the candidate last selected cannot be a ground for declining relief to her. In fact, the case pleaded by her is that had respondent no. 5 was not included in the merit list under BCI, she would be the candidate last selected and that precisely was the reason why she approached the Court. The legality or otherwise of selection of respondent no. 5 was an issue before the Writ Court. The impugned order dated 15.07.2015 passed in W.P(S) No. 1936 of 2015 does not address the issues raised in the writ petition. As a sequel to the discussion in the foregoing

paragraphs, it is held that the impugned order dated 15.07.2015 suffers from serious infirmity in law, warranting interference.

Last Conclusion

50. The appointment of respondent No.5 is abundantly illegal and is liable to be terminated forthwith. The appellant was excluded from the Merit List and she has been denied appointment in BCI category, illegally. We, thus, quash the appointment of respondent No. 5 as Civil Judge (Junior Division) 2015 Batch and direct the State to issue appointment letter to the appellant forthwith, subject to her fulfilling other conditions post-selection, if any. She shall be treated as Judicial Officer of 2015 Batch and undergo training as prescribed under Jharkhand Judicial Service (Recruitment) Rules, 2004, for which the High Court shall take the decision.

51. The appellant suffered mental agony throughout this period after her illegal exclusion from merit list under BCI category, and instead respondent No. 5 was taken illegally as held by us, she deserves to be compensated, though monetary compensation may not meet the agony of the appellant. She was forced to approach the Court, and in the process she suffered financial burden in litigating this matter. We, thus, direct Jharkhand Public Service Commission to compensate the appellant with cost of Rs.1,00,000/- (Rupees One Lac), which shall be deposited with Registrar General of this Court within two weeks from today and on its deposit, the same shall be given to the appellant by Registrar General on proper verification/identification.

52. The net result is that the appeal, on hand, stands allowed and the impugned order dated 15.07.2015 passed in W.P.(S) No. 1936 of 2015 is set aside, in turn W.P.(S) No. 1936 of 2015 stands allowed.