

(2020) 01 RAJ CK 0263
In the Rajasthan High Court
Case No : Civil Writ Petition No. 376 Of 2020

Prakash Purabia

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 29-01-2020

Acts Referred:

Rajasthan Backward Classes (Reservation Of Seats in Educational Institutions in the State And Of Appointments And Posts in Services Under the State) (Amendment), Act, 2019 — Section 2

Citation : (2020) 01 RAJ CK 0263

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Parvej Moyal, Vishal Jangid, Hemant Choudhary

Final Decision : Dismissed

Judgement

1. The petitioner has preferred the present writ petition inter alia seeking direction to the respondents to consider his case as a candidate of 'More Backward Class' (MBC).
2. Concededly, pursuant to advertisement No.09/2018, dated 04.05.2018, issued by the Rajasthan Subordinate & Ministerial Services Selection Board, Jaipur for the purpose of filling up the post of Physical Training Instructor Grade-III, the petitioner staked his claim as an OBC - non creamy layer candidate.
3. It appears that when the result/cut-off was declared on 14.11.2019, the petitioner realized that had he filled his application under MBC category, he would have gotten through.
4. The petitioner thus, proceeded to make a representation dated 03.01.2020 to the respondent - Selection Board and requested to consider his candidature in MBC category inter alia stating that at the time of filling up the form, he could not apply under MBC category as he had a certificate of OBC - non creamy layer only.

5. It is pertinent to note that the petitioner's caste certificate [showing him as Gadaria (Gadri)] came to be issued as late as on 03.12.2019 and that too shows him as a candidate belonging to OBC category and not MBC. However, his caste has been shown as Gadaria (Gadri).

6. Learned counsel for the petitioner argued that though, the reservation for MBC was provided in the subject advertisement, which was issued on 04.05.2018, but reservation to MBC came into being only after the Rajasthan Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services Under the State) (Amendment), Act, 2019 (hereinafter referred to as "the Act of 2019"), came into force on 13.02.2019. According to learned counsel, petitioner is entitled to be considered as an MBC candidate after 13th February, 2019 and since the result of written examination was declared after 13.02.2019, the respondents were required to consider him as an MBC candidate.

7. In the opinion of this Court, the arguments so advanced by the petitioner is misconceived, rather misleading. Learned counsel has cited the provisions of the Act of 2019 only, without making any reference to the basic Act. As a matter of fact, the reservation for More Backward Class had come into being on the advent of the Rajasthan Backward Classes (Reservation of Seats in Educational Institutions in the State and of Appointments and Posts in Services Under the State), Act, 2017 (hereinafter referred to as the 'Act of 2017'), which came into force in the year 2017.

8. By way of separate notification, issued reservation to the extent of 1% was provided under the Act of 2017.

9. The Act of 2019, which was made effective from 13.02.2019 is simply an amendment to the Act of 2017 providing for 5% reservation in the Act itself. Said position is clear from perusal of preamble and Section 2 of the Act of 2019. Reservation for MBC has been provided by the State from 08.11.2017 and the petitioner, thus, ought to have obtained requisite certificate and should have claimed his candidature as MBC candidate by filling up his application form as an MBC candidate.

10. Petitioner having applied as an OBC candidate cannot get his category changed, at this stage.

11. There is no force in the petition; the same is, hereby, dismissed.

12. Needless to observe that dismissal of the present writ petition will not deprive the petitioner of his right to obtain categoric certificate of 'More Backward Class', in accordance with law.

13. Stay petition also stands dismissed.