

(2021) 02 PAT CK 0263

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 13361 Of 2018

Nivedita Singh

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Feb. 23, 2021**Hon'ble Judges:** Anil Kumar Upadhyay, J**Bench:** Single Bench**Advocate:** Prashant Sinha, Anil Kumar, S.S. Sundram**Final Decision:** Dismissed

Judgement

1. Heard Mr. Prashant Sinha, learned counsel for the petitioner, Mr. S.S. Sundram, learned counsel for BSS Commission and Mr. Anil Kumar, AC to

SC-8.

2. The instant writ application has been filed by the petitioner for a direction to the respondents to consider her case for appointment against the post

of Senior Scientific Assistant, pursuant to Advertisement No. 09010115 (Ballistic branch-Physics Division) and Advertisement No. 11010115 (Physics

branch- Physics Division).

3. The short point involved in the present writ application whether the petitioner can claim her candidature in the Backward Class Category where the

petitioner failed to produce the Creamy Layer Certificate required for appointment of Backward Class Category at the time of interview.

4. Admittedly, the petitioner was called for interview on 26.12.2015 and 27.12.2015, as is evident from Annexure-3 (A) and 3(B). The certificate of

Creamy Layer appended to the writ application is dated 29.12.2015 i.e. post interview. The case of the petitioner was not considered in Backward

Class Category for want of Creamy Layer certificate and in the result, the respondent Bihar Staff Selection Commission considered the case of the

petitioner in General Category and no candidate, who secured lesser marks than the petitioner, recommended for appointment in General Category.

5. Mr. Prashant Sinha, learned counsel for the petitioner submits that the petitioner belongs to Backward Class Category. She applied for Backward

Class Category and she could produce the Creamy Layer certificate before the publication of the results and, therefore, the respondents have acted

arbitrary in not considering the case of the petitioner for appointment in Backward Class Category.

6. Since the petitioner failed to produce the Creamy Layer certificate required for the purpose of claiming reservation at the time of interview, the

Court does not find any infirmity in the decision of the Bihar State Selection Commission.

7. Mr. Prashant Sinha, learned counsel for the petitioner claims that initially the result of the petitioner was declared in Backward Class Category and,

therefore, the petitioner has acquired the vested right to be appointed in the Backward Class Category. The submission is only noted to be rejected for

the simple reason that on the date of interview no certificate showing Creamy Layer was produced by the petitioner and, as such, the petitioner for

non-production of Creamy Layer certificate has rendered itself ineligible for appointment in Backward Class Category.

8. The writ application stands dismissed.