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**(2008) 02 PAT CK 0181**

**Patna High Court**

**Case No:** CWJC No. 14615 of 2007

Sangeeta Minki

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision:** Feb. 19, 2008

**Citation:** (2009) 1 PLJR 445

**Hon'ble Judges:** Navin Sinha, J

**Bench:** Single Bench

**Advocate:** Sanjay Pandey, Surendra Kishore Verma, for the Appellant; Sanjeev Kumar Mishra for the state, for the Respondent

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### **Judgement**

@JUDGMENTTAG-ORDER

Navin Sinha, J.

Heard the learned Counsel for the petitioner, the learned Counsel for the State as also the learned Counsel appearing on behalf of the BPSC. The petitioner seeks a mandamus for a direction to consider her case for appointment on the post of Child Development Project Officer in the Backward Class-II (Surhi) category.

2. Having completed in the preliminary test the petitioner applied in response to a fresh advertisement for appearing at the conventional written examination. Clause 4(ii) of the advertisement stated that to claim reservation necessary caste certificate (backward caste/extremely backward caste alongwith creamy layer) issued by the District Magistrate, Additional Collector or SDO was valid. That necessary reservation certificate could be produced by a candidate at the time of interview.

3. Learned Counsel submits that the petitioner appeared for the interview and submitted the necessary certificate issued by the SDO. In accordance with the subsequent condition No. 6 of the interview letter requiring her to produce such certificate from the District Magistrate or Additional Collector, the petitioner applied to the District Magistrate after receipt of the interview call and also in fact deposited the same on 18.9.2007.

4. The respondents did not dispute the genuineness or correctness of the caste certificate of the petitioner issued by the SDO. The contention is that the SDO concerned was not authorized to issue the certificate. These are internal matters with which the petitioner cannot be stated to be conversant and aware of. Once status of the person issuing the certificate and the genuineness or validity thereof is not disputed by the respondents nothing much turns on the same. Clause 6 of the interview letter requiring such certificate to be produced from the District Magistrate or the Additional Collector was at best supplemental to the original advertisement issued by the respondents inviting application for examination. Any terms in the interview call letter cannot be at variance with or detract from the conditions of the advertisement so as to absolve the respondents simultaneously visiting the petitioner with adverse consequences.

5. Now the status of the petitioner as a Backward Class-II category candidate is not in controversy. It is her case that she has wrongly been treated as general category candidate and not selected. That she secured 246 marks in her category when a person who has secured 245 has been selected and recommended.

6. Learned Counsel for the respondents have relied upon an order of the Supreme Court passed in SLP No. 23898 of 2003 to urge that it was only certificate of the District Magistrate which was admissible and valid. The controversy before the Supreme Court turned more on the incorrect English rendition of the original Hindi Clause in the advertisement with regard to the production of the caste certificate. The situation at present where original requirement was fulfilled by production of certificate from the competent Sub-Divisional Officer was not for consideration before the Supreme Court. This application is therefore disposed off with a direction to the respondents to take fresh decision with regard to the petitioner in the Backward Class-II category for appointment on the post of Child Development Project Officer in the light of aforesaid observation within a maximum period of six weeks from the date of receipt and/or production of a copy of this order.