



2025:DHC:5038-DB



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

*Reserved on: 19 February 2025*  
*Pronounced on: 1 July 2025*

+ W.P.(C) 373/2024 & CM APPL. 1755/2024

GOVT OF NCT OF DELHI AND ORS .....Petitioners  
Through: Mrs. Avnish Ahlawat, SC with  
Mr. Nitesh Kumar Singh, Ms. Laavanya  
Kaushik, Mr. Mohnish Sehrawat and Ms.  
Aliza Alam, Advs.

versus

NISHA .....Respondent  
Through: Mr. M.K. Bhardwaj, Ms.  
Priyanka M. Bhardwaj and Mr. Maria  
Mugesh Kannan, Advs.

+ W.P.(C) 10587/2024, CM APPLs. 43555/2024 & 43557/2024

GOVT OF NCT OF DELHI AND ANR .....Petitioners  
Through: Mrs. Avnish Ahlawat, SC with  
Mr. Nitesh Kumar Singh, Ms. Laavanya  
Kaushik, Mr. Mohnish Sehrawat and Ms.  
Aliza Alam, Advs.

versus

JYOTI .....Respondent  
Through: Mr. Pardeep Dahiya and Ms.  
Mahima Benipuri, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE C. HARI SHANKAR**  
**HON'BLE MR. JUSTICE AJAY DIGPAUL**

**JUDGMENT**  
**01.07.2025**

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**C. HARI SHANKAR, J.**

1. Both these writ petitions arise out of judgments passed by the Central Administrative Tribunal<sup>1</sup>, on 8 December 2023 in OA 1538/2022<sup>2</sup> and on 10 October 2023 in OA 472/2019<sup>3</sup>. The issue in controversy in both these cases being similar, they were heard together. This judgment disposes of both the writ petitions.

**WP (C) 10587/2024 [GNCTD and Anr. v Jyoti]**

**Facts**

2. The respondent Jyoti belongs to the Nai community, which, according to the recitals in the OA<sup>4</sup> filed by her before the Tribunal, is recognised as an OBC<sup>5</sup> by Resolutions dated 24 May 1995, 19 June 2003 and 17 February 2014 issued by the GNCTD<sup>6</sup>. It figures at serial No. 43 of the list of castes notified as OBCs by the GNCTD.

3. On 2 January 2013 and 12 July 2017, the Deputy Commissioner<sup>7</sup> (South West District) Delhi and the District Magistrate<sup>8</sup>, Dwarka, South West District, Delhi issued certificates to Jyoti, certifying that she belonged to an OBC. These certificates read thus:

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<sup>1</sup> “the Tribunal”, hereinafter

<sup>2</sup> **Jyoti v Government of National Capital Territory of Delhi & Anr.**

<sup>3</sup> **Nisha v Govt. of NCT of Delhi and Ors.**

<sup>4</sup> Original Application

<sup>5</sup> Other Backward Classes

<sup>6</sup> Government of National Capital Territory of Delhi

<sup>7</sup> “DC” hereinafter

<sup>8</sup> “DM” hereinafter



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Certificate dated 2 January 2013, issued by the DC (South West District) Delhi

**“OFFICE OF THE DEPUTY COMMISSIONER (SOUTH WEST DISTRICT), DELHI**

No:OBC/09/931/20131/11/9/2012/9641104432

Dated: 2/1/2013

This is to certify that Sh/Smt/Ku: **JYOTI**  
S/o,W/o,D/o: DHARAMVIR  
Resident of: **B-59, BINDAPUR EXTN. UTTAM NAGAR, NEW DELHI**

Belongs to the community NAI Which is recognised as a Other Backward Class (OBC) under:

1. Resolution No. 12011/68/93-BCC(C) dated the 10/09/1993, published in the Gazette of India Extraordinary Part I, Section I. No. 186, dated 13/09/1993.
2. Resolution No. 12011/9/91-BCC(C) dated the 19/10/1991, published in the Gazette of India Extraordinary Part I, Section I. No. 88, dated 20/10/1995.
3. Resolution No. 12011/7/95-BCC(C) dated the 24/5/1995, published in the Gazette of India Extraordinary Part I, Section I. No. 88, dated 25/5/1995.
4. Resolution No. 12011/44/96-BCC dated the 6/12/1996, published in the Gazette of India Extraordinary Part 1, Section I. No. 210, dated 11/12/1996.
5. Notification No. F(8)/11/99-2000/DS/CST/SCP/OBC/2855 dated 31/5/2000.
6. No.FB(6)/2000-01/DSCST/SC/OBC/11677 dated 5/2/2004.

This certificate is issued on the basis of OBC Certificate issued to Shri / Smt/Kumari DHARAMVIR Father of Sh/Smt/Kumari JYOTI resident of DISTT. ALIGARH, UTTAR PRADESH, who belongs to NAI caste which is recognised as Other Backward Class in the State / U.T. U.P Issued by the TEHSILDAR vide their No. 12209203793 dated 02/12/2009.

It is also certified that he/she does not belong to the



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persons/sections (Creamy layer) mentioned in column 3 of the Schedule to the Govt. of India, Department of Personnel and Training O.M. No. 36012/22/93-Estt.(SCT) dated 8/9/1993,O.M. No.36033/3/2004-Estt(Res) dated 9/3/2004 and 14/10/2008.

Sd/-  
Dated: 2/1/2013 (SATISH KUMAR RAWAT )  
Executive Magistrate, PALAM”

Certificate dated 12 July 2017, issued by the District Magistrate  
Dwarka, South West District, Delhi

REVENUE DEPARTMENT, GOVT. OF NCT OF DELHI  
OFFICE OF THE DISTRICT MAGISTRATE  
DWARKA : SOUTH WEST DISTRICT

OBC CERTIFICATE

For applying for appointment to Posts under the Government of India

CERTIFICATE NO: 90500000287390

This is to certify that JYOTI D/o DHARAM VIR R/o RZ-B-59 BINDAPUR EXTN. DELHI 110059 INDIA belongs to the NAI community which is recognised as Other Backward. Class under the Government of India, Ministry on Social Justice and Empowerment's Resolution No. 12011/44/96/BCC, 12011/36/99-BCC(C), 12011/68/93-BCC(C), 12011/96/94-BCC Dated 06/12/1996, 04/04/2000, 10/09/1993, 09/03/1996.

JYOTI and her family ordinarily resides at RZ-B-59 BINDAPUR EXTN. DELHI 110059 INDIA

This certificate is issued on the basis of OBC certificate issued to JYOTI SELF of JYOTI R/o B-59, BINDAPUR EXTN. UTTAM NAGAR, NEW DELHI belongs to NAI community of DELHI State vide Certificate No. 9641104432 dated 02/01/2013 issued by the OFFICE OF THE DC SOUTH WEST DELHI

This is also to certify that she does not belong to the person/sections (Creamy layer) mentioned in column 3 of the Schedule to the Govt. of India, Department of Personnel & Training O.M. No. 36012/22/93-Estt(SCT). 36033/3/2004-



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Estt(Res), 36033/1/2013-Estt (Res) dated 8/9/1993 9/03/2004 & 14/10/2008 and 27/5/2013 respectively.

Sd/-

Satish Kumar Rawat,  
Tehsildar”

4. On 5 July 2018, Advertisement No. 02/2018<sup>9</sup> was issued by the Delhi Subordinate Services Selection Board<sup>10</sup>, GNCTD, inviting applications for posts under the Department of Health and Family Welfare and the Services Department, GNCTD. The advertisement extended the benefit of OBC reservation in the following terms:

“5. **RESERVATION BENEFITS:**

(i) Reservation benefits will be available to the SC/ST/OBC/Physically Handicapped & other special category candidates in accordance with the instructions / orders / circulars issued from time to time by the Govt. of Delhi. The reservation benefits under SC/STs shall be admissible as per judgment dated 12/09/2012 of Hon’ble High Court of Delhi as passed in WP(C)No. 5390/2010, CM No. 20815/2010 – Deepak Kumar and Ors Vs District and Sessions Judge, Delhi and Ors. However, this shall be further subject to policy decision of Govt. of Delhi.

(ii) Candidates who wish to be considered against reserved vacancies and /or to seek age relaxation, must be in possession of relevant certificates (SC/ST/OBC/Non Creamy layer/PH/Educational/ Experience etc.) issued by the competent/notified authority (in prescribed format) on or before the cutoff date (closing date of advertisement) otherwise their claim for any category will not be entertained and their applications will be considered against Un-reserved (UR) category vacancies, if eligible otherwise.

(iii) Only OBC (Delhi) candidates will be given the benefit of reservation/age relaxation under OBC category. OBC (Outside) candidates will be treated as Unreserved candidate and they must apply under UR category. The OBC candidates must be in possession of non-Creamy layer

<sup>9</sup> “the Vacancy Notice”, hereinafter

<sup>10</sup> “DSSSB” hereinafter



certificate, along with his/her caste certificate.

(iv) Only following two types of certificates will be accepted as valid certificates for grant of benefit of reservation to OBCs:-

(A) OBC certificate (Delhi) issued by the Revenue Department of GNCT of Delhi, on the basis of a old certificate issued to any member of individual's family from GNCT of Delhi.

(B) OBC certificate issued by a competent authority outside Delhi to a person belonging to a community duly notified as OBC by GNCT of Delhi. This certificate should have mandatorily been issued on the basis of OBC certificate issued by Govt. of NCT of Delhi to a family member of the concerned person who had been residing in Delhi before 08/09/1993.”

5. The respondent applied, in response to the aforesaid Vacancy Notice, as an OBC candidate. She furnished, with her application, the OBC certificate dated 2 January 2013 (*supra*) issued by the DC (South West District) Delhi.

6. Given the volume of applications received in response to the advertisement, the DSSSB contends that, at the stage of initial screening of applications, the validity of the OBC certificates and other documents produced by the candidates is not examined in detail. It is only in respect of the candidates who qualify on merit that examination of their certificates and other documents is undertaken. We may note that this is a standard procedure adopted in most such examinations and that, given the number of applications which are received, the procedure is wholesome and cannot be faulted. Nor was any grievance raised in this regard by the respondent in neither of these petitions.



7. The respondent cleared Tier I and Tier II of the selection process following the Vacancy Notice, as per the results which were announced on 23 January 2020 and 20 April 2021 respectively. The notice dated 20 April 2021, which announced the result of candidates who had cleared Tier II, also required the candidates to fill up and upload the requisite documents in e-dossier format. The respondent did so, within the time stipulated in that regard.

8. The list of candidates provisionally selected were announced by three result notices dated 17 June 2021, 23 February 2022 and 29 April 2022. 101 seats were reserved for OBC. The respondent had scored 98.04, which was above the cut-off mark of 74.24, announced for OBCs as per the notice dated 23 January 2020, whereby the Tier I results were declared.

9. By the aforesaid result notices dated 17 June 2021, 23 February 2022 and 29 April 2022, 85, 12 and 5 OBC candidates were selected. The respondent scored less than the last OBC candidate selected by the result notice dated 17 June 2021 and the supplementary result notice dated 23 February 2022. She, however, scored more than the last OBC candidate selected by the supplementary result notice dated 29 April 2022. Nonetheless, her name did not figure in the list of selected candidates in any of the notices.

10. The supplementary result notice dated 29 April 2022 noted that her candidature had been rejected as her OBC certificate dated 2 January 2013, furnished by her with her application, certifying that the



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Nai community, to which she belonged, was recognised as an OBC in the State of UP, and not in Delhi. As such, the OBC certificate was not in terms of the requirements in that regard as contained in the Vacancy Notice, as a result of which, her candidature could not be considered.

### **Pleadings in the OA before the Tribunal**

11. Aggrieved thereby, the respondent approached the Tribunal by way of OA 1538/2022. She pointed out that she had, to her credit, not one, but two OBC certificates issued by the GNCTD. Emphasis was laid on the OBC certificate dated 2 January 2013, to submit that it clearly certified that the respondent was an OBC. The certificate having been issued by the Revenue Authorities in the GNCTD, it was submitted that the DSSSB erred in rejecting her candidature.

12. The DSSSB filed a counter affidavit by way of response to the OA, in which it was submitted that the chance of the respondent being included in the list of successful candidates only arose at the time of the third supplementary result, as she had scored less than the last successful OBC candidate in the first two results as notified. Her candidature could not be treated as valid, as the OBC certificate dated 2 January 2013, submitted by her with her application, was issued on the basis of an OBC certificate issued to her father by the authorities in the State of UP, certifying that the Nai community was an OBC in UP. On the basis of the said certificate, therefore, Jyoti could not claim to be an OBC for the purposes of securing appointment to posts under the GNCTD. The certificate could be of use only in the State of





UP. Accordingly, the counter affidavit prayed that the OA be dismissed.

### **The Impugned Judgment**

13. The Tribunal has, by the impugned judgment dated 8 December 2023 allowed the OA. In doing so, it has relied on the judgment passed by a Coordinate Bench of this Court in ***GNCTD v Rishabh Malik***<sup>11</sup>.

14. As against this, before the Tribunal, the DSSSB relied on the judgment of the Supreme Court in ***GNCTD v Pradeep Kumar***<sup>12</sup>.

15. Apart from relying on the judgment in ***Rishabh Malik*** and a Coordinate Bench of the Tribunal itself in ***Hemant Kumar v GNCTD***<sup>13</sup>, there is no independent reasoning in the impugned judgment of the Tribunal. Nor does the judgment deal with the decision of the Supreme Court in ***Pradeep Kumar*** on which the DSSSB relied.

16. Following the decisions in ***Rishabh Malik*** and ***Hemant Kumar***, the Tribunal has, by the impugned judgment quashed the Result Notice dated 29 April 2022 and has directed that the respondent be granted appointment pursuant to the Vacancy Notice, and granted consequential benefits with effect from the date her immediate junior in merit was granted appointment. The benefits would be notional till

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<sup>11</sup> 2019 SCC OnLine Del 8303

<sup>12</sup> (2019) 10 SCC 120

<sup>13</sup> Judgment dated 24 March 2023 in OA 2046/2019



the date Jyoti assumes the charge of the post and actual thereafter.

**The present Writ Petition, and rival stands therein**

17. Aggrieved by the aforesaid judgment, DSSSB has approached this Court by means of the present writ petition.

18. We have heard Ms. Avnish Ahlawat, learned Standing Counsel for the petitioners and Mr. Pardeep Dahiya, learned counsel for the respondent at length.

19. Written submissions have also been filed by learned counsel.

20. The DSSSB has, before this Court, sought to place reliance on the stipulation in the Advertisement 02/2018 to the effect that reservation for SC/ST/OBC candidates would be granted as per the policy of the GNCTD and that only OBC (Delhi) candidates would be entitled to the benefit of reservation. Para 2(ix) of the petition asserts thus:

“(ix) That further, vide Supplementary Result Notice No. 1378 dated 29.04.2022, the candidature of Respondent/ Jyoti was considered and rejected for the post code 21/18 on the ground that the Respondent was shortlisted for skill test as OBC (Delhi) category candidate as she had availed benefit of reserved category and was treated as Qualified in OBC Category after considering percentage of error (dictation/shorthand) i.e. upto 10%. The Respondent had submitted OBC certificate No. 9641104432 dated 02.01.2013 vide which she has been declared as NAI community of Uttar Pradesh State and as such she did not hold/possess OBC (Delhi) certificate issued under Notification No. F.28(93)/91-92 / SC/ST/P&S/4384 dated 20.01.1995, F.(8)/11/99-2000/DS/CST/SCP/OBC/ 2855 dated 31.05.2000 and F.8(6)/2000-01/DSCST/CS/ OBC/11677 dated 05.07.2004. As such, she did not



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hold valid OBC certificate to validate her candidature for the post code 21/18. She was also not eligible under UR category. Copies of the above notifications are annexed herewith as **Annexure-D (Colly).**”

**21.** The Notifications dated 20 January 1995, 31 May 2000 and 5 February 2004, issued by the GNCTD, to which reference is made in the afore-extracted paragraph from the writ petition, read thus:

Notification dated 20 January 1995

“WELFARE OF SC/ST/OBC DEPARTMENT  
NOTIFICATION

Delhi, the 20<sup>th</sup> January, 1995

No. F;28(93)/91-92/SCST/P&S/4384 - Whereas a Commission known as the “Commission” for the Other Backward Classes of the National Capital Territory of Delhi” has been constituted vide this Government’s notification No.F.28(93)/91-92/SCST/P&S/109 dated 20<sup>th</sup> April, 1993, to examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Government as it deems appropriate;

And whereas the said Commission has. vide its report dated the 21st October, 1994, identified as many as 53 castes / communities to be declared as Other Backward Classes in the National Capital Territory of Delhi and recommended 27 per cent reservation for them excluding those in the creamy layer.

Now, therefore, in pursuance of the report of the said Commission and with the prior approval of the Government of India conveyed vide Ministry of Welfare’s letter no. M-12011/79/94-BCC dated the 9<sup>th</sup> January 1995, the Lt. Governor of the National Capital Territory of Delhi, hereby notifies the list of Other Backward Classes in the National Capital Territory of Delhi, as under-

1. Abbasi, Bhishti, Sakka
2. Agri, Kharwal, Kharol, Khariwal
3. Ahir, Yadav, Gwala
4. Arain, Rayee, Kunjra
5. Badhai, Barhai, Khati, Tarkhan, Jangra Brahmin, Vishwakarma,



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- Panchal, Mathul-Brahmin, Dheeman, Ramgarhia Sikh.
6. Badi
  7. Bairagi
  8. Bairwa, Berwa
  9. Barai, Bari, Tamboli
  10. Bauria/Bawria (excluding those in SCs)
  11. Bazigar, Nat, Kalandar (excluding those in SCs)
  12. Bharbhooja, Kanu
  13. Bhat, Bhatra, Darpi, Ramiya
  14. Bhatiara
  15. Chak
  16. Chippi, Tonk, Darzi, Idrishi (Momin), Chimba
  17. Dakaut, Prade
  18. Dhinwar, Jhinwar, Nishad, Kewat/Mallah (excluding those in SCs), Kashyap (Non Brahmin), Kahar
  19. Dhobi (excluding those in SCs)
  20. Dhunia, Pinjara, Kandra-Karan, Dhunnewala, Naddaf, Mansoori.
  21. Fakir,
  22. Gadaria, Pal, Baghel, Dhangar, Nikhar, Kurba, Gadheri, Gaddi, Garri.
  23. Ghasiara, Ghosi
  24. Gujar, Gurjar
  25. Jogi, Goswami, Nath, Yogi, Jugi, Gosain.
  26. Julaha, Ansari (excluding those in SCs).
  27. Kachhi, Koeri, Murai, Murao, Maurya, Kushwaha, Shakya, Mahato.
  28. Kasai, Qassab, Quraishi
  29. Kasera, Tamera, Thathiar
  30. Khatgune
  31. Khatik (excluding those in SCs)
  32. Kumhar, Prajapati
  33. Kurmi
  34. Lakhera, Manihar
  35. Lodhi, Lodha, Lodh, Maha Lodh
  36. Luhar, Saifi, Bhubhalia
  37. Machi, Machhera
  38. Mali Saini, Southia, Southia, Sagarwan Shimali, Nayak
  39. Memar, Raj
  40. Mina/Meena
  41. Merasi, Mirasi
  42. Mochi (excluding those in SCs)
  43. Nai, Hajjam, Nai (Sabita), Sain, Salmani.
  44. Nalband
  45. Naqqal
  46. Pakhiwara
  47. Patwa
  48. Pathar Chera, Sangtarash



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- 49. Rangrez
- 50. Raya-Tanwar
- 51. Sunar
- 52. Teli
- 53. Rai-Sikh

The above list shall come into effect from the date of issue of this notification.

By order and in the name of the Lt. Governor of the National Capital Territory of Delhi

F. Pahuna, Secy.”

Notification dated 31 May 2000

“DIRECTORATE FOR THE WELFARE OF SC/ST  
NOTIFICATION

Delhi. the 31<sup>st</sup> May, 2000

No.F.8/11/99-2000/DSCST/SCP/OBC/2855 – The Government of National Capital Territory of Delhi vide Department of Welfare of Scheduled Caste/ Scheduled Tribes Notification No.F.28(93)/91-92/SCST/P&S/109, dated 20<sup>th</sup> April 1993 had constituted a Commission known as “Commission for Other Backward Classes” to examine requests for inclusion of any class of citizens as a backward class in the list and hear complaints of over-inclusion or under-inclusion of any backward class in such lists.

On the recommendations of the abovesaid Commission, 53 Castes/Communities were notified for inclusion in the list of Other Backward Classes for Delhi vide Notification No. P 28(93)/91-92/SCST/P&S/4384, dated 20-1-95.

The abovesaid Commission has submitted its IInd report wherein a recommendation for inclusion of “Jat” Caste/Community in the OBC list for Delhi has been made. This recommendation has been accepted by the Government of National Capital Territory of Delhi and after the approval of Govt. of India, Ministry of Social Justice and Empowerment conveyed vide letter No.12011/49/99-BCC(Con.) dated 24<sup>th</sup> April 2000, the Lt. Governor of National Capital Territory of Delhi, hereby notifies to include the “Jat” Caste / Community in the State list of Other Backward Classes of National Capital Territory of Delhi, as under :



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Sl.No.	Old Entry	New Entry
54.	Nil	Jat

The abovesaid inclusion shall come into effect from the date of issue of this notification.

By order and in the name of the Lt.  
Governor of the National Capital  
Territory of Delhi  
H.A. ARFI, Secy.”

Notification dated 5 February 2004

“DEPARTMENT FOR THE WELFARE OF  
SC/ST/OBC/MINORITIES

NOTIFICATION

Delhi, the 5<sup>th</sup> February 2004

No. F 8(6)/2000-01/DSCST/SCP/OBC/11677 – Whereas the Government of National Capital Territory of Delhi, vide Department of Welfare of Scheduled Caste / Scheduled Tribes Notification No.F.28(93)/91-92/SCST/P&S/109, dated 20<sup>th</sup> April 1993, had constituted a commission known as ‘Commission for other Backward Classes’ to examine requests for inclusion of any class of citizens as a backward class in the list and hear complaints of over-inclusion or under-inclusion of any backward class in such lists;

And whereas on the recommendations of the abovesaid Commission, 53 Castes/communities were notified for inclusion in the list of Other Backward Classes for Delhi vide Notification No.F. 28(93)/91-92/SCST/P&S/4384 dated the 20<sup>th</sup> January 1995 and whereas the “Jat” Caste / community was further included in the list of Other Backward Classes for Delhi vide NotificationNo.F.8/11/99-2000/DSCST/SCP/OBC/2855, dated the 31<sup>st</sup> May, 2000 on the basis of the recommendation made by the said Commission for Other Backward Classes in its Second Report;

And whereas the abovesaid Commission has submitted its Third and Fourth reports recommending certain castes / communities for inclusion in the OBC list for Delhi and whereas the recommendations of the Commission were accepted by the Government of National Capital Territory of Delhi in toto;

Now, therefore, with the approval of the Government of



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India, Ministry of Social Justice and Empowerment conveyed vide then letter No.12011/5/2002-BCC dated the 17<sup>th</sup> October, 2003, the Lt. Governor of National Capital Territory of Delhi hereby notified to include the following Castes / Communities in the State list of Other Backward Classes of National Capital Territory of Delhi, namely:

S.No.	Old Entry	New Entry
21	Fakir	Fakir, Alvi
55	Nil	Od
56	Nil	Charan, Gadavi
57	Nil	Bihar, Rajbhar
58	Nil	Jaisal/Jayaswal
59	Nil	Kosta / Kostee
60	Nil	Meo
61	Nil	Ghrit, Bahti, Chahng
62	Nil	Ezhava and Thiyya
63	Nil	Raikwar / Rayakwar
64	Nil	Rawat/Rajput Rawat

The abovesaid inclusion shall come into effect from the date of issue of this notification.

By order and in the name of the Lt.  
Governor of the National Capital  
Territory of Delhi  
C.TARGAY, Secy.”

22. The writ petition also seeks to distinguish the decision in ***Rishabh Malik*** on the ground that, apart from the OBC (Migrant/Outsider) certificate tendered by the candidate Rishabh Malik in that case, he was also in possession of an OBC (Delhi) certificate dated 23 March 2015, on the basis of which he was ultimately selected. As against this, it is submitted that the respondent has no such certificate with her. The certificate dated 2 January 2013



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has been issued on the basis of an earlier OBC certificate issued to her father by the State of UP, certifying that the Nai community was an OBC in the State of UP and the certificate dated 12 July 2017 applies only to appointment for posts under the Government of India, as is specifically stated in the Certificate itself. Besides, the OBC certificate dated 2 January 2013 does not conform to the stipulations envisaged in Clause 5 of the Vacancy Notice and is not therefore a valid OBC certificate for the purposes of the advertisement. Ground C in the writ petition sets out the following format, in which as per Notification dated 20 January 1995 of the GNCTD, the OBC certificates are required to be issued:

“REVENUE DEPARMTENT, GOVT OF NCT OF DELHI  
OFFICE OF THE DISTRICT MAGISTRATE  
SUBDIVISION : \_\_\_\_\_ DISTRICT

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OBC CERTIFICATE (DELHI)

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CERTIFICATE NO. \_\_\_\_\_

This is to certify that \_\_\_\_\_ (Name) S/o \_\_\_\_\_  
(Father Name) Ro. \_\_\_\_\_ (address) belongs to the  
\_\_\_\_\_ community which is recognized as Other Backward Class  
under the Government of NCT of Delhi notified vide Notification  
No.F.28(93)/91-92/SCST/P&S/4387 dated 20/01/1995 published in  
the Gazette of Delhi Extraordinary Part-IV.

\_\_\_\_\_ (Name) and his family ordinarily resides at  
\_\_\_\_\_ Delhi \_\_\_\_\_ (Pin Code) INDIA.

This is also to certify that he does not belong to the persons/  
sections (Creamy layer) mentioned in column 3 of the Schedule to  
the Govt. of India, Department of Personnel & Training O.M. No.  
36012/22/93-Estt(SCT), 36033/3/2004- Estt(Res), 36033/1/2013-  
Estt(Res) dated 8/9/1993, 9/03/2004 & 14/10/2008 and 27/05/2013  
respectively.

Tehsildar / Executive Magistrate  
(Sub-Division)  
Date”





23. Moreover, it is submitted that the case is covered by the judgment of the Supreme Court in *Pradeep Kumar*.

24. These contentions have been reiterated by Ms. Ahlawat during arguments before the Bench. She has also filed written submissions which placed reliance on the judgments of the Supreme Court in *Pradeep Kumar, Bir Singh v Delhi Jal Board*<sup>14</sup>, *MCD v Veena*<sup>15</sup>, *GNCTD v Ravindra Singh*<sup>16</sup> as well as of this Court in *Deepak Kumar v District & Sessions Judge, Delhi*<sup>17</sup>, and *Pooja Rohilla v GNCD*<sup>18</sup>.

25. Responding to the submissions of Ms. Ahlawat, Mr. Dahiya, learned counsel for the respondent submits that, in the light of the certificates dated 2 January 2013 and 12 July 2017 issued to Jyoti, no fault could be found with the judgment of the Tribunal. He submits that the issue is covered by the decisions of this Court in *DSSSB v Tanisha Ansari*<sup>19</sup> and *GNCTD v Anjana*<sup>20</sup>.

## Analysis

26. We have heard learned counsel for both sides and applied ourselves to the facts and rival contentions.

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<sup>14</sup> (2018) 10 SCC 312

<sup>15</sup> (2001) 6 SCC 571

<sup>16</sup> SLP(C) No.12474-75/2019, decided on 12 September 2022

<sup>17</sup> (2012) 132 DRJ 169 (FB)

<sup>18</sup> Order dated 28 April 2023 passed in WP(C) 5493/2023

<sup>19</sup> 2024 SCC OnLine Del 243

<sup>20</sup> Judgment dated 10 May 2022 passed in WP(C) 9856/2019



27. The controversy, on facts and in law, appears to be fully covered by a Coordinate Bench of this Court, authored by one of us (C. Hari Shankar, J.), in ***Government of NCT of Delhi v Priyanka***<sup>21</sup>.

28. On a comparison of the OBC Certificate dated 2 January 2013 furnished by the respondent, *vis-à-vis* the stipulations in that regard as contained in Clause 5 of the Vacancy Notice, we find, as Mrs. Ahlawat correctly points out, that the OBC certificate dated 2 January 2013 does not conform to the requirements envisaged in Clause 5 of the Vacancy Notice, and the OBC certificate dated 12 July 2017 is expressly issued only “for applying for appointment to posts under the Government of India”. Inasmuch as the posts advertised by the Vacancy Notice are not posts under the Government of India but under the GNCTD, the OBC certificate dated 12 July 2017 can be of no avail to the respondent.

29. Insofar as the OBC certificate dated 2 January 2013 is concerned, it clearly states that it has been issued on the basis of an OBC certificate dated 2 December 2009 issued to Dharam Vir, the father of Jyoti *by the Tehsildar in the State of UP*. Clause 5 of the Vacancy Notice specifically requires the OBC certificate, if issued by the Revenue Department of the GNCTD, to be based on an old certificate issued to any member of the candidate’s family *from the GNCTD*. As the OBC certificate dated 2 January 2013, though issued to the respondent by the Revenue Authority in the GNCTD, has not been issued on the basis of an OBC certificate issued to any member of her family by the GNCTD, but on the basis of an OBC certificate

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<sup>21</sup> 2024 SCC OnLine Del 9034



issued to her father by the Revenue Authority in the State of UP, the OBC certificate does not conform to Clause 5 of the Vacancy Notice.

**30.** It cannot, therefore, be said that Jyoti was in possession of an OBC certificate which conforms to Clause 5 of the Vacancy Notice, as would entitle her to the benefit of her OBC status in the matter of recruitment following the said Vacancy Notice.

**31.** This Court was faced with an identical situation in *Priyanka*. Paras 3 to 30 of the said decision may be reproduced thus:

“3. The Delhi Subordinate Services Selection Board, by advertisement dated 5 July 2018, invited applications for appointment to the post of Pharmacist in the DoHFW. The advertisement also envisaged reservation for OBC candidates. Clause 5 of the advertisement provided thus:

“5(iv) Only following two types of certificates will be accepted as valid certificates for grant of benefit of reservation to OBCs:

(A) OBC certificate (Delhi) issued by the Revenue Department of GNCT of Delhi, *on the basis of an old certificate issued to any member of individual's family from GNCT of Delhi.*

(B) OBC certificate issued by a competent authority outside Delhi to a person belonging to a community duly notified as OBC by GNCT of Delhi. This certificate should have mandatorily been issued on the basis of OBC certificate issued by Govt. of NCT of Delhi to a family member of the concerned person who had been residing in Delhi before 08/09/1993.”

4. The respondent applied for the post. She underwent the selection in which she was declared successful by the DSSSB. An offer of appointment, albeit provisional, was issued to the respondent *vide* Memorandum dated 18 August 2020. This was followed by an Office Order dated 29 September 2020 issued by the DoHFW, appointing the respondent as Pharmacist.



5. On 10 March 2021, the respondent was served with an Office Order issued by the Chief District Medical Officer<sup>22</sup>, DoHFW, cancelling her candidature for the post of Pharmacist. The said Office Order was stated to have been issued on the basis of an e-mail received by the CDMO from the DoHFW on 2 November 2020 which, in turn, was stated to have been issued on the basis of rejection notice dated 29 September 2020 issued by the DSSSB, cancelling the candidature of the respondent. The reason for cancellation of the candidature was stated to be that the respondent had been selected by treating her as an OBC candidate whereas the OBC certificate provided by her did not conform to the requirement of para 5 of the advertisement dated 5 July 2018.

6. After unsuccessfully representing against the cancellation of her candidature, the respondent moved the Central Administrative Tribunal by way of OA 772/2021. By judgment dated 13 July 2023, the Tribunal has allowed the said OA and quashed the rejection notice dated 29 September 2020 issued by the DSSSB and the order dated 10 March 2021 issued by the CDMO. The petitioners have also been directed to allow the respondent to resume her duties.

7. Aggrieved thereby, the Govt. of NCT of Delhi has approached this Court by means of the present writ petition.

8. We have heard Mr. Nitesh Kumar Singh, learned Counsel for the petitioners and Mr. Rajat Aneja, learned Counsel for the respondent at length.

9. Before proceeding on merits, the OBC certificate dated 17 December 2016 issued to the respondent is required to be reproduced as under:

“REVENUE DEPARTMENT, GOVT OF NCT OF DELHI  
OFFICE OF THE DISTRICT MAGISTRATE  
KAPASHERA: SOUTH WEST DISTRICT

OBC CERTIFICATE

CERTIFICATE NO: 90500000200986

This is to certify that PRIYANKA D/o SANJEEV KUMAR  
R/o 21, VILLAGE PANDWALA KALAN DELHI 110043

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<sup>22</sup> CDMO



INDIA belongs to the AHIR community of HARYANA State which is recognised as Other Backward Class under:

Resolution No. 12011/68/93-BCC(C) dated 10/09/1993, published in the Gazette of India Extraordinary Part I, Section I. No. 186, dated 13/9/1993, Resolution No. 12011/9/91-BCC(C) dated 19/10/1991, published in the Gazette of India Extraordinary Part I. Section I. No. 88, dated 20/10/1995.

Resolution No. 12011/7/95-BCC(C) dated 24/05/1995, published in the Gazette of India Extraordinary Part I, Section I. No. 88, dated 25/05/1995.

Resolution No. 12011/44/96-BCC(C) dated 06/12/1996, published in the Gazette of India Extraordinary Part I, Section I. No. 88, dated 11/12/1996.

Notification No. F(8)/11/99-2000/DSCST/SCP/OBC/2855 dated 31/05/2000. Notification No. F(6)/2000-01/DSCST/SC/OBC/11677 dated 05/02/2004.

PRIYANKA and her family ordinarily resides at 21, VILLAGE PANDWALA KALAN DELHI 110043 INDIA

*This certificate is issued on the basis of OBC certificate issued to SANJEEV KUMAR FATHER of PRIYANKA R/o DISTRICT GURGAON STATE HARYANA belongs to AHIR community of HARYANA State vide Certificate No. 050341501005161 dated 21/07/2015 issued by the TEHSILDAR.*

This is also to certify that she does not belong to the person/sections (Creamy layer) mentioned in column 3 of the Schedule of the Govt. of India, Department of Personnel & Training O.M. No. 36012/22/93-Estt.(SCT), 36033/3/2004-Estt.(Res), 36033/1/2013-Estt.(Res) dated 8/9/1993 9/03/2004 & 14/10/2008 and 27/5/2013 respectively.”

10. It is not necessary to advert in detail to the respective contentions of both sides, as, in our view, it is plain, from a reading of the OBC certificate issued to the respondent and extracted *supra*, that it does not conform to para 5 of the advertisement dated 5 July 2018.

11. Para 5 envisages two kinds of OBC certificates, which could be treated as valid for grant of OBC reservation. Of these,



para 5(iv)(B) refers to an OBC certificate issued by an authority outside Delhi. Inasmuch as the OBC certificate of the respondent was issued by the District Magistrate, Kapashera, Delhi, para 5(iv)(B) is not applicable.

12. Para 5(iv)(A) treats, as valid for the purposes of OBC reservation, OBC certificates issued by the Revenue Department of the GNCT of Delhi, *on the basis of an old certificate issued to any member of individual's family from GNCTD of Delhi.*

13. We may note, even at this point, that even at the stage of applying consequent to the advertisement dated 5 July 2018, the respondent was aware of this condition, as contained in para 5 of the advertisement. She never chose to challenge it. She, therefore, was bound by the said condition.

14. Having not chosen at any point to challenge the said condition, she could not, having participated in the selection as an OBC candidate, seek to contend that the condition was illegal or unreasonable in any manner.<sup>23</sup> To be fair, Mr. Aneja did not even seek to so contend. We, nonetheless, deem it necessary to clarify this point.

15. Clearly, para 5(iv)(A) does not *ipso facto* render any OBC certificate issued by the Revenue Department of the GNCTD as valid for the purposes of OBC reservation. The certificate has additionally to be issued *on the basis of an old certificate issued to any member of individual's family from GNCTD of Delhi.*

16. The OBC certificate of the respondent clearly states that it was issued on the basis of an OBC certificate issued to the respondent's father at Gurgaon, certifying that the Ahir community, to which he belonged, was an OBC in Haryana.

17. It is clear that certificate no. 050341501005161 dated 21 July 2015 issued to the respondent's father was issued by the authorities in Haryana, and not by the authorities in Delhi. This fact, we may note, was not disputed by Mr. Aneja either.

18. The respondent's OBC certificate, therefore, having been issued on the basis of an earlier OBC certificate issued to her father by the revenue authorities in Haryana, was not a valid OBC Certificate for the purposes of reservation, as envisaged by Clause 5(iv)(A) of the advertisement.

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<sup>23</sup> Rekha Sharma v Rajasthan High Court, 2024 SCC OnLine SC 2109



19. The Tribunal was, therefore, clearly in error in holding that the respondent was in possession of a valid OBC certificate.

20. Mr. Aneja, learned Counsel for the respondent, however, pitches his case on Office Memorandum<sup>24</sup> dated 8 April 1994 issued by the Department of Personnel and Training<sup>25</sup>, which reads:

“In continuation of the DOPT'S letter of 36012/22/93-Estt. (SCT) dated 15<sup>th</sup> November, 1993, I am directed to say that it has been represented to this Department that persons belonging to OBCs who have migrated from one State to another for the purpose of employment, education, etc. experience great difficulty in obtaining caste certificates from the State from which they have migrated. In order to remove this difficulty, it has been decided that the prescribed authority of a State/U.T. Administration in terms of the DOPT letter No. 36012/22/93-Estt. (SCI) dated 15<sup>th</sup> November, 1993 may issue the OBC certificate to a person who has migrated from another State on the production of a genuine certificate issued to his father by the prescribed authority of the State of his father's origin except where the prescribed authority feels that a detailed enquiry is necessary through the State of origin before the issue of the certificate.”

21. Mr. Aneja's contention is that the Ahir community to which the respondent belongs, was an OBC in Haryana and that the respondent, after marriage had shifted and taken up residence in Delhi.

22. The aforesaid DOPT OM dated 8 April 1994, he submits, entitled the respondent to be treated as an OBC in Delhi.

23. The submission entirely begs the issue at hand. The DOPT OM dated 8 April 1994 only documented the decision of the DOPT that the revenue authorities in a State could issue an OBC certificate to a person who had migrated from another State on the production of a certificate issued to her/his father by the authority of the latter state.

24. Mr. Aneja submits that the respondent's OBC certificate having been issued in terms of the aforesaid DOPT OM dated 8 April 1994, the respondent could not be denied the benefit thereof.

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<sup>24</sup> OM

<sup>25</sup> DOPT





25. Mr. Aneja's submission actually defeats his case. By so asserting, Mr. Aneja has acknowledged the fact that the OBC certificate of the respondent has been issued, not on the basis of an earlier OBC certificate issued to her father by the GNCTD, but on the basis of a certificate issued to him by the authorities in Haryana. The certificate, therefore, does not satisfy the second requirement envisaged in para 5(iv)(A) of the advertisement, which is that the OBC certificate of the candidate has to be issued on the basis of an OBC certificate issued to her, or his, family from the GNCTD.

26. We do not express any opinion on whether the aforesaid condition was reasonable or unreasonable. To reiterate, the condition is not under challenge. The respondent participated in the selection and secured appointment in full awareness of the said condition. She, therefore, took a calculated risk in tendering her OBC certificate. Her appointment was provisional, subject to verification of her entitlement to OBC reservation. The decision of the DSSSB, that the respondent was not entitled to OBC reservation as her OBC certificate was not issued on the basis of an earlier certificate issued to her father from the GNCTD, is clearly in order.

27. Additionally, were we to accept Mr. Aneja's submission, we may be doing disservice and injustice to several other candidates who may have been in possession of OBC certificates such as that of the respondent, and who never participated in the selection as the certificate did not conform to para 5(iv)(A) of the advertisement.

28. It would be completely unjust, therefore, on our part, to allow the respondent to be regarded as an OBC candidate, even though her OBC certificate is not in terms of para 5(iv)(A) of the advertisement.

29. It is also well settled that court cannot tweak the terms of an advertisement or permit a candidate to escape the rigours thereof. It is not the case of the respondent that the provision for OBC reservation as contained in para 5 of the advertisement was in any way contrary to any Recruitment Rules, or other binding statutory or executive instructions.

30. For the aforesaid reasons, we are of the opinion that the DSSSB was correct in cancelling the candidature of the respondent."

32. The decision in *Priyanka* is, clearly, on all fours with the





present case, both factually as well as legally.

33. The Tribunal, in allowing, Jyoti's OA, placed reliance of the judgment of the Coordinate Bench of this Court in **Rishabh Malik**. We feel that, in doing so, the Tribunal overlooked the fact that *there is nothing, in the judgment in **Rishabh Malik**, to indicate that the advertisement or notification under consideration in that case contained a stipulation to the effect that the OBC certificate produced by the candidate had to have been issued on the basis of an OBC certificate issued to the candidate's near relative by the GNCTD.*

34. It is true that, in the said decision, too, the reason for treating the candidate Rishabh Malik OBC certificate as invalid was because it was issued on the basis of an earlier OBC certificate issued to his father by Tehsildar, Muzaffarpur, UP. If the following para from the said decision is read in isolation, it may appear that the decision applies to the present case:

“6. The admitted position which has emerged from the record is that the respondent was not only born and brought up, but he had also received all his education in the GNCT of Delhi. Further, he belongs to the Jat community which has been duly recognised as an OBC by the GNCTD. Merely because he was issued his initial OBC category certificate by the Office of the Deputy Commissioner, North District, Delhi on the basis of the certificate issued to his father by the Tehsildar, Budhana, Muzaffarnagar (U.P.), it cannot at all be said that the petitioner is an outsider OBC. Evidently, the respondent is a permanent resident of Delhi and the Revenue Department of the GNCTD had, while issuing the OBC certificate to him, categorically stated that he belonged to the Jat community which has been recognised as a backward class by the GNCTD vide its notification dated 20.01.1995. In these circumstances, we are unable to appreciate as to why the respondent should not be treated as being eligible for applying under the OBC category for a post under the GNCTD, when the



community to which he belongs has been duly recognised as an OBC category by the GNCTD, and he is an ordinary resident of GNCT of Delhi. The factum of the respondent's OBC category status being based on a caste certificate issued to his father by the state government of U.P., cannot be used to deny the respondent of the benefits made available to the OBC category within the territory of Delhi, once it is admitted that the Jat community is also recognized as a backward community by the GNCTD.”

**35.** There is no gainsaying that several of the facts in *Rishabh Malik* overlap with those in the present case. In that case, too,

- (i) the OBC certificate issued to Rishabh Malik was based on an earlier OBC certificate issued to his father by the Revenue Authorities in Muzaffarpur, UP,
- (ii) the Jat community to which Rishabh Malik belonged was to duly recognised as an OBC by the GNCTD, and
- (iii) Rishabh Malik was a permanent resident of Delhi.

**36.** While these facts may overlap with the facts of the present case, there are two prominent differences between the two cases. The first, already noticed earlier, is the fact that the judgment does not note any stipulation, in the advertisement pursuant to which Rishabh Malik applied for appointment as an OBC candidate, to the effect that an OBC certificate of the candidate had to have been issued on the basis of an earlier OBC certificate issued to a near relative by the GNCTD. The second distinguishing feature is that the OBC certificate produced by Rishabh Malik, as per the recital of facts in para 6 of the judgment, clearly recorded the statement of the Revenue Department of the GNCTD that the Jat community, to which Rishabh Malik belonged, had “been recognised as a Backward Class by the GNCTD *vide* its notification dated 20 January 1995”. Thus, an acknowledgement that



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the caste to which Rishabh Malik belonged was an OBC in the GNCTD was expressly recorded in the OBC certificate issued by the revenue authorities in the GNCTD. In the present case, no such statement is to be found in the OBC certificate dated 2 January 2013 issued to Jyoti.

**37.** The Vacancy Notice, insofar as it envisaged grant of OBC reservation, contained strict terms, in Clause 5 thereof. Clause 5(iv) made it absolutely clear that only two types of certificates would be accepted as valid for grant of the benefit of OBC reservation. Sub-clause (A) dealt with OBC certificates issued by the Revenue Department of the GNCTD and sub-clause (B) dealt with OBC certificates issued by authorities outside Delhi. Inasmuch as the OBC certificate dated 2 January 2013 had been issued by the Revenue Authorities in the GNCTD, sub-clause (B) would not apply. We are concerned, therefore, only with sub-clause (A) in Clause 5(iv) of the advertisement.

**38.** Sub-clause (A) required the OBC certificate, if issued by the Revenue Department of the GNCTD, to have been issued on the basis of an old certificate issued to any member of the individual's family from the GNCTD. As we have held in *Priyanka*, this condition is non-negotiable. We have to bear in mind that there may be several candidates such as the petitioner, who have in their possession OBC certificates issued by the Revenue Authorities in the GNCTD, but on the basis of an old certificate issued to a family member by the Revenue Authority *outside* the GNCTD who may not have applied because of that reason. The petitioner cannot be singled out for special



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treatment. The OBC certificate dated 2 January 2013, not having been issued on the basis of an old certificate issued to any member of the family *by the GNCTD*, cannot be treated as a valid OBC certificate for the purposes of Clause 5 of the Vacancy Notice.

39. The respondent has, along with her counter affidavit placed on record yet another OBC certificate dated 24 June 2022, issued to her by the Tehsildar, Dwarka along with a clarificatory note dated 12 September 2022 issued by the Tehsildar, Dwarka in connection therewith. The OBC certificate dated 24 June 2022 and the clarification certificate dated 12 September 2022 read thus:

“REVENUE DEPARTMENT, GOVT. OF NCT OF DELHI  
OFFICE OF THE DISTRICT MAGISTRATE  
DWARKA : SOUTH WEST DISTRICT

OBC CERTIFICATE (DELHI)

CERTIFICATE NO. 90500000880862

This is to certify that JYOTI D/o DHARAM VIR R/o RZ-B-59, BINDAPUR EXTN, UTTAM NAGAR DELHI 110059 INDIA belongs to the NAI community which is recognised as Other Backward Class under the Government of NCT of Delhi notified vide Notification No. F.28(93)/91-92/SCST/P&S/ 4384 dated 1995-01-20 published in the Gazette of Delhi Extraordinary Part-IV.

JYOTI and her family ordinarily resides at RZ-B-59, BINDAPUR EXTN, UTTAM NAGAR DELHI 110059 INDIA

This is also to certify that she does not belong to the person/sections (Creamy layer) mentioned in column 3 of the Schedule to the Govt. of India, Department of Personnel & Training O.M. No. 36012/22/93-Estt(SCT), 36033/3/2004-Estt(Res), 36033/1/2013-Estt(Res) dated 8/9/1993 9/03/2004 & 14/10/2008 and 27/5/2013 respectively,

TEHSILDAR



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“GOVT OF NCT OF DELHI  
OFFICE OF THE EXECUTIVE MAGISTRATE (DWARKA)  
SDM OFFICE COMPLEX, SECTOR-10, DWARKA, NEW  
DELHI

No. F.TEH (DW)/2022/04

Dated:12.09.2022

To WHOM SO EVER IT MAY CONCERN

Whereas, Hon'ble Commission for the Other Backward Classes of NCT of Delhi has directed the undersigned to clarify the Delhi OBC status of Ms. Jyoti B/o Sh. Dharamvir after getting representations from the same.

Whereas, a certificate bearing no. OBC/09/931/20131/11/9/ 2012/9641104432 dated 02.01.2013 of OBC status belonging to U.P. State along-with non-creamy layer status was issued to Ms. Jyoti Do Sh. Bharamvir R/o B-59, Bindapur Extn., Uttam Nager, New Delhi based on the OBC status certificate issued to Sh. Dharamvir (father of the applicant) by the U.P. Govt. In respect of the same, the applicant has submitted that she had applied for Delhi OBC status certificate at that time along-with necessary documents certifying the residential status of him in Delhi prior to 1993 and OBC status certificate of Sh. Dharamvir (father of the applicant) issued by the U.P. Govt, was provided only to certify the caste of the applicant at that time. However, the certificate no.OBC/09/931/20131/11/9/ 2012/9641104432 dated 02.01.2013 was issued on the basis of caste certificate issued to the father of the applicant and the residential proof (prior to 1993) given by the applicant had not been considered at that time.

Whereas, the above said certificate no.OBC/09/931/20131/11/9/ 2012/9641104432 dated 02.01.2013 was lost and a lost report no.407604/2022 dated 17/05/2022 has been lodged/registered on Delhi Police Portal in this regard by Ms. Jyoti D/o Sh. Dharamvir. Ms, Jyoti has further applied for a new/fresh Delhi OBC status certificate in June, 2022 and a certificate no.90500000880862 dated 24.06.2022 showing Delhi OBC status along-with non-creamy layer status has been issued by the Executive Magistrate Dwarka as per applicable/extant rules/SOPs.

Whereas, Certificate already issued to the applicant in year 2033 (other state OBC status) could not be rectified at this stage and a new certificate bearing Delhi OBC status has already been



issued to the application in year 2022 as per applicable/extant rules/SOPs. For, Delhi OBC status, an applicant must have residential proof in Delhi since 1993, and the applicant is having the same.

Whereas, it is evident that the applicant has residential proof in Delhi before 1993 and the status was same at the time of issuance of certificate no.OBC/09/931/20131/11/9/2012/9641104432 dated 02.01.2013 also. Non-Creamy layer status of the applicant was also confirmed at that time (in 2013) that shall remain same on PAN India basis irrespective of the State.

Further, in compliance to the directions of Hon'ble Commission for the Other Backward Classes of NCT of Delhi it is hereby clarified that Ms. Jyoti D/o Sh. Dharamvir is having the Delhi OBC status (Non-Creamy layer) and certificate issued to the him in 2013 could not be rectified at this time and after proper examination of the relevant documents submitted by the applicant in claim of their status, a certificate no.90500000880862 dated 24.06.2022 certifying the Delhi OBC status (Non-Creamy layer) of Ms. Jyoti D/o Sh. Dharamvir has already been issued to the applicant by the undersigned.

(HARMINDER KAUR)

EXECUTIVE MAGISTRATE/TEHSILDAR DWARKA”

40. Apparently, though the aforesaid OBC certificate and the clarification certificate were issued more than a year prior to the passing of the impugned judgment by the Tribunal, they were never placed before the Tribunal. The respondent does not contend, in her counter affidavit, that these documents were furnished before the Tribunal. Nor does the counter affidavit provide any explanation for her failure to do so. In the absence of any such explanation, there is actually no reason for us to advert to these documents at all.

41. Nonetheless, we have perused them. Having done so, it is clear that the OBC certificate dated 24 June 2022 also does not conform to the requirements of Clause 5 of the Vacancy Notice as it does not



purport to have been issued on the basis of any old OBC certificate issued to any member of the respondent's family by the GNCTD.

42. Nor does the explanatory note dated 12 September 2022 contain any clarification to the effect that, prior to 2 January 2013, any OBC certificate had been issued to a family member of the petitioner by the GNCTD. Rather, a fresh OBC certificate had been sought by Jyoti on the basis of the fact that she had been residing in Delhi prior to 1993. When one reads Clause 5(iv) of the Vacancy Notice, it becomes clear that the stipulation regarding pre-1993 residence in Delhi applies only to OBC certificates issued by authorities outside Delhi.

43. Clause 5(iv) of the Vacancy Notice requires an OBC certificate, if issued by an authority outside Delhi, to certify that the candidate has been residing in Delhi prior to 1993. That requirement is not stipulated in respect of OBC certificates issued by the GNCTD. In the case of OBC certificates issued by the GNCTD, sub-clause (A) in Clause 5(iv) of the Vacancy Notice applies. What is required in the case of such certificates *is an express statement in the certificate that it has been issued on the basis of an old certificate issued by the GNCTD to a family member of the candidate*. This requirement is not satisfied either by the certificate dated 2 January 2013 filed by Jyoti with her application or by the certificate dated 24 June 2022 filed along with the counter affidavit before this Court.

44. The entire issuance of the certificate dated 24 June 2022, in fact, appears to be shrouded in mystery. In the first place, as already noted, this document was never filed before the Tribunal, though it





purports to have been issued more than a year prior to the passing of the impugned judgment. Secondly, the clarification by the Tehsildar Dwarka was issued almost more than 2 ½ months after the certificate itself was issued on 12 September 2022. In the said clarification, it is recorded that the earlier certificate issued to the respondent on 2 January 2013 was lost, and a lost report had been lodged in that regard by the respondent with the Delhi Police. The date of losing of the certificate is not mentioned. The lost report has come to have been filed as late as on 17 May 2022. Nearly two years after that, the present petition came to be filed before this Court in which a copy of the certificate dated 2 January 2013, stated to have been lost around May 2022, has been annexed.

**45.** We, therefore, are reluctant to accord any significance to the OBC certificate dated 24 June 2022 filed by the respondent with her counter affidavit. In any case, as we have already noted, this certificate too, does not conform to Clause 5 of the Vacancy Notice.

**46.** In matters of recruitment, especially where a large number of candidates apply, the conditions in the notification or advertisement inviting applications have to be strictly construed and strictly followed. The Court cannot, of its own accord, grant relaxation, on principles of fairness or equity. The reason is obvious. If the Court is to relax the requirements of the notifications or advertisement inviting applications, it would do injustice to several candidates who, had the requirements been thus relaxed, might have applied and did not do so merely because of the manner in which the requirements have been framed in the notification or advertisement. The Court cannot, in such





cases, proceed on sympathetic considerations.

47. As the case is fully covered by our decision in the judgment of this Court in *Priyanka*, and the decision in *Rishabh Malik*, on which the Tribunal has relied, is clearly distinguishable on facts, we are of the opinion that the impugned judgment of the Tribunal cannot sustain.

48. For the aforesaid reasons, the impugned judgment dated 8 December 2023 passed by the Tribunal is quashed and set aside. OA 1538/2022 filed by the respondent before the Tribunal shall stand dismissed.

49. We clarify, however, that if consequent to the passing of the impugned judgment dated 8 December 2023, the respondent has secured appointment and any payment has been made to her consequent thereto, no recovery from the respondent shall be effected.

50. The writ petition stands allowed in the aforesaid terms with no orders as to costs.

**WP (C) 373/2024 [GNCTD and Anr. v Nisha]**

51. To the extent that the entitlement of the respondent Nisha, in this writ petition, to the benefit of OBC reservation is in issue, the controversy here is similar to that in WP (C) 10587/2024.

52. Applications were invited, by the DSSSB, for recruitment to



various posts in the GNCTD, the New Delhi Municipal Council and the erstwhile South, North and East Delhi Municipal Corporations, *vide* Advertisement No. 01/13. The respondent, who belongs to the Jat community, also applied as an OBC candidate. That the respondent fulfils the prescribed eligibility and other stipulations contained in the Advertisement, is not disputed. The stipulation regarding OBC reservation, contained in Clause 6 of the Advertisement, read as under:

**“6. RESERVATION BENEFITS**

(i) Reservation benefits will be available to the SC/ST/OBC/Physically Handicapped & other special category candidates in accordance with the instructions / orders / circulars issued from time to time by the Govt. of Delhi. The reservation benefits under SC/STs shall be admissible as per judgment dated 12/09/2012 of Hon'ble High Court of Delhi as passed in No. 5390/2010, CM No. 20815/2010 Deepak Kumar and Ors Vs District and Sessions Judge, Delhi and Ors. as per which SC/ST candidates of other States /U.Ts. shall also be eligible for reservation benefit. However this shall be further subject to policy decision of Govt. of Delhi for SC/ST migrants of other States.

(ii) Candidates who wish to be considered against reserved vacancies and/or to seek age relaxation, must be in possession of relevant certificates issued to them on or before the closing date by the competent/notified authority (in prescribed format) otherwise their claim for SC/ST/OBC/Physically Handicapped/Ex-Servicemen & other special category will not be entertained and their applications will be considered against Un-reserved (UR) category vacancies, if eligible otherwise.

(iii) The OBC candidates must be in possession of filled prescribed Annexure I, along with his/her caste certificate issued by Govt. of Delhi only.”

Annexure I to the Advertisement contained the following format for the OBC certificate:

**“Annexure-1**



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**FORM OF DECLARATION/UNDERTAKING TO BE  
SUBMITTED BY THE OBC CANDIDATE [IN ADDITION TO  
THE COMMUNITY CERTIFICATE (OBC)] TO BE FILED  
AT THE TIME OF VERIFICATION OF DOCUMENTS**

I, \_\_\_\_\_ Son/Daughter of Shri \_\_\_\_\_  
resident of Village/town/city \_\_\_\_\_ district  
\_\_\_\_\_ State \_\_\_\_\_ hereby declare that I  
belong to the \_\_\_\_\_ Community which is recognized  
as a backward class by the Government of India for the purpose of  
reservation in Services as per orders contained in the Department  
of Personnel and Training Office Memorandum No.36012/22/93-  
Estt. (SCT) dated -8/09/1993. It is also declared that I do not  
belong to persons/sections (Creamy Layer) mentioned in Column 3  
of the Schedule to the above referred Office Memorandum dated  
08/09/1993, which is modified vide Department of Personnel and  
Training Office Memorandum No.36033/3/2004-Estt. (Res.) dated  
14/10/2008.

**Place:**

\_\_\_\_\_  
(Signature of the Candidate)

**Date:**

\_\_\_\_\_  
(Name of the Candidate)”

53. The respondent was in possession of the following OBC certificate dated 6 February 2014, issued by the DC (North West District), Delhi, which she submitted with her application:

**“OFFICE OF THE DEPUTY COMMISSIONER (NORTH  
WEST DISTRICT), DELHI**

No:OBC/06/957/11498/6/2/2014/90509571230607/6369

Dated:6/2/2014

This is to certify that Sh/Smt/Ku: **NISHA**

S/o,W/o,D/o: **ASHOK KUMAR**

Resident of: **F-153, VIJAY VIHAR PH-II SEC-4 ROHINI  
DELHI**

Belongs to the community JAT Which is recognised as a Other  
Backward Class (OBC) under:

1. Resolution No. 12011/68/93-BCC(C) dated the  
10/09/1993, published in the Gazette of India  
Extraordinary Part I, Section I. No. 186, dated 13/09/1993.



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2. Resolution No. 12011/9/91-BCC(C) dated the 19/10/1991, published in the Gazette of India Extraordinary Part I, Section I. No. 88, dated 20/10/1995.
3. Resolution No. 12011/7/95-BCC(C) dated the 24/5/1995, published in the Gazette of India Extraordinary Part I, Section I. No. 88, dated 25/5/1995.
4. Resolution No. 12011/44/96-BCC dated the 6/12/1996, published in the Gazette of India Extraordinary Part I, Section I. No. 210, dated 11/12/1996.
5. Notification No. F(8)/11/99-2000/DS/CST/SCP/OBC/2855 dated 31/5/2000.
6. No.FB(6)/2000-01/DSCST/SC/OBC/11677 dated 5/2/2004.

This certificate is issued on the basis of OBC Certificate issued to Shri / Smt/Kumari ASHOK KUMAR Father of Sh/Smt/Kumari NISHA resident of DISTT. BULAND SHAHAR U.P who belongs to JAT caste which is recognised as Other Backward Class in the State / U.T. U.P Issued by the TEHSILDAR vide their No. 465 Dated: 19/5/2008.

It is also certified that he/she does not belong to the persons/sections (Creamy layer) mentioned in column 3 of the Schedule to the Govt. of India, Department of Personnel and Training O.M. No. 36012/22/93-Estt.(SCT) dated 8/9/1993,O.M. No.36033/3/2004-Estt(Res) dated 9/3/2004 and 14/10/2008.

Sd/-  
(RANBIR SINGH)  
Executive Magistrate, ROHINI”

Dated: 6/2/2014

**54.** Apparently, under the above Advertisement 01/13, recruitments were made for post codes 68/10 and 03/13. Though some objection in that regard finds place in the OA filed by the respondent before the Tribunal, that issue was not seriously canvassed either before the Tribunal or before this Court.

**55.** As the respondent found that OBC candidates who had scored



lesser marks than her were offered appointment, while she was not, she approached the Tribunal by way of OA 472/2019.

**56.** The DSSSB, in its counter-affidavit filed before the Tribunal, submitted that, as the OBC certificate dated 6 February 2014, issued to the respondent, had been issued on the basis of an OBC certificate issued to her father Ashok Kumar by the Tehsildar, Bulandshahr, UP, the respondent could not be extended the benefit of OBC reservation in Delhi. She was, therefore, treated as an Unreserved candidate, and, as she had scored less than the last selected Unreserved candidate, could not be appointed.

**57.** The only issue before the Tribunal was, therefore, whether the respondent was entitled to be considered an OBC candidate.

**58.** The Tribunal proceeded to allow the respondent's OA on the basis of the judgment of a coordinate Division Bench of this Court in *GNCTD v Anjana*<sup>26</sup>. As the judgment in *Anjana* is short, we may reproduce it, in full, thus:

"1. The petitioner impugns the order of the learned Central Administrative Tribunal ("CAT") dated 28.03.2019 in O.A. No. 2986/2016, which while allowing the respondent's O.A. has directed the GNCTD to, within a period of two months from the date of receipt of a copy of the order, take further steps apropos issuance of order of appointment, treating the present respondent as an OBC candidate, in accordance with the position of merit obtained by her in the written test.

2. Three years have gone-by since the passage of the said order. No corollary relief has been received by the respondent. She had applied for appointment to the post of Assistant Teacher

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<sup>26</sup> MANU/DE/1851/2022



(Nursery), (Post Code 3/13). She claimed OBC status. Examinations were held. Results were declared. She came in the merit list. However, her result was cancelled on 26.02.2016 as it was found that the OBC certificate produced by her was issued on the basis of her father's OBC status recognized in Uttar Pradesh. The said certificate was issued by the Executive Magistrate, Palam, New Delhi.

3. Subsequently by Public Notice dated 10.01.2017 the GNCTD provided all meritorious candidates another opportunity of filing their relevant documents. In the petitioner's case, the relevant document would be the OBC Certificate. The said Public Notice, inter alia, reads as under:-

If any candidate is having marks above the cut-off but his/her roll number has not been mentioned in Annexure "A" he/she will also attend the office on 24.01.2017 & 25.01.2017 along with copies of documents, admit card and two passport size photographs.

This is final opportunity for the candidates failing which it will be presumed that the candidates are not interested for the post of Asstt. Teacher (Nursery).

"Note:- (i) OBC (Certificate) Should be issued by the Competent Authority of G.N.C.T. of Delhi, OBC (Outsider/Migrant/Central) will be treated as UR Candidate."

4. In the interim, on 10.03.2016, eight months before the issuance of the aforesaid Public Notice, a fresh OBC Certificate had already been issued to the petitioner by the Tehsildar, Dwarka, New Delhi on the basis of her residence in Delhi, inasmuch as the "Lodhi Community" she claimed to be from, was recognized as OBC under GNCTD Notification dated 20.01.1995.

5. However, despite the production of the latter OBC Certificate of 10.03.2016, she was not granted employment. The first OBC certificate was issued on the basis of her father hailing from Uttar Pradesh and belonging to the Lodhi OBC category. Between the issuance of the first and the second OBC certificates, the community to which he belonged remained unaltered, indeed subsists. His daughter-the petitioner, was issued an OBC certificate on the basis of the father's residence in Delhi at least from 1995. Albeit the father claims to have resided in Delhi since 1986. On the basis of a driving licence issued in Delhi, his Ration Card and other documents. The respondent was born and educated in Delhi. Her status as a member of the Lodhi Community, which forms a



part of Other Backward Class, remains unaltered. This community is recognised as OBC as per GNCTD notification of 20.01.1995. Therefore, issuance of OBC certificate to her is justified. In terms of a subsequent Memorandum dated 13.01.2017 issued by the Delhi Subordinate Services Selection Board ("DSSSB"), the petitioner was granted a last and final opportunity to produce the OBC certificate which she did produce and submitted to DSSSB within the time specified.

6. The petitioner states that in view of two OBC certificates, the dispute arose as to which one will be valid. There is no dispute here. It is only the petitioners' indecision to accept the relevant document. The latter OBC certificate of the successful candidate meets all requirements of the recruitment notice. It should have been accepted. An administrative approval/decision should have been taken instead of bringing the case to this court. The court is of the view, that whichever way it is seen, the respondent continues to belong to the OBC category. In the first certificate, her recognition in the OBC category was on the basis of her father hailing from Uttar Pradesh whereas in the second certificate, it was on the basis of her being born and raised in Delhi but the status of her father belonging to the OBC Lodhi class remains constant and intact. Therefore, she is rightly certified in the "OBC" category.

7. Therefore, the respondent shall be treated as an OBC candidate and shall be issued an appointment letter within four weeks of receipt of a copy of this order.

8. The impugned order calls for no interference. The petition is disposed-off in the above terms. All pending applications also stand disposed-off."

**59.** Aggrieved by the above judgment of the Tribunal, the GNCTD has approached this Court under Article 226 of the Constitution of India.

**60.** We have heard Ms. Avnish Ahlawat, learned Counsel for the petitioner and Mr. M.K. Bharadwaj, learned Counsel for the respondent, at length.

**61.** Ms. Ahlawat predicates her challenge on





- (i) Circular dated 27 July 2007 issued by the Services Department of the GNCTD to the DSSSB,
- (ii) Circular dated 28 July 2016 issued by the Services Department to all Heads of Departments in the GNCTD, and
- (iii) GNCTD OM<sup>27</sup> dated 31 May 2021, titled “Reservation for OBCs in the jobs under the Government of NCT of Delhi – reg.”

These communications read as under:

Services Deptt Circular dated 27 July 2007

**“Sub: Reservation for OBCs in the jobs under the Government of NCT of Delhi.**

Madam/Sir,

I am directed to inform that the Hon'ble Lt. Governor has considered the matter regarding grant of benefit of reservation to OBCs in Civil posts under the Govt. of NCT of Delhi and has decided that the Central list for OBCs qua Delhi and castes defined as OBCs by OBC Commission and accepted so by the Government be extended the benefit of reservation In Delhi.

In light of the above, appropriate action for grant of benefits of reservation to OBCs in the civil posts of Govt. of NCT of Delhi may be taken accordingly.”

Services Deptt Circular dated 28 July 2016

**“Sub: Reservation for OBCs in the jobs under the Government of N.C.T. of Delhi - reg.**

Sir/Madam,

In continuation with this department's circular dated 27.07.2007 on the subject cited above (copy enclosed).I am directed to inform that

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<sup>27</sup> Office Memorandum





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Govt. of N.C.T. of Delhi has decided to accept the following two types of certificates as valid certificates for grant of benefit of reservation to OBCS in civil posts under Govt. of N.C.T. of Delhi:

- 1) OBC certificate (Delhi) issued by the Revenue Department of GNCT of Delhi, on the basis of any old certificate issued to any member of individual's family from GNCT of Delhi.
- 2) OBC certificate issued by a Competent Authority outside Delhi to a person belonging to a community duly notified as OBC by GNCT of Delhi. This certificate should have mandatorily been issued on the basis of OBC certificate issued by Govt. of N.C.T. of Delhi to any family member of the concerned person who had been residing in Delhi before 08.09.1993,

This issues with the prior approval of the Competent Authority.”

GNCTD OM dated 31 May 2021

Dated: 31/05/2021

#### OFFICE MEMORANDUM

Sub: Reservation for OBCs in the jobs under the Government of N.C.T. of Delhi reg.

In continuation of this Department's letter No. F. 19(10)/2001/S-III/Pt. File/2278-2285 dated 27<sup>th</sup> July, 2007 and No.F.19(01)/2012/S.IV/1241-1258 dated 28<sup>th</sup> July, 2016 on the subject cited above (copies enclosed), the undersigned is directed to convey the clarification that:

- 1) an individual, who possesses OBC (Delhi) Certificate issued by the Revenue Department, Government of National Capital Territory of Delhi certifying that he/she belongs to a caste which has been notified as OBC by the Government of National Capital Territory of Delhi, shall be entitled for the benefits of reservation to OBCS in civil posts in various Departments of Government of National Capital Territory of Delhi, irrespective of the fact that the said OBC (Delhi) Certificate has been issued with or without mentioning of old certificate issued to his/her father, siblings and real Uncles (paternal side only)



2) an individual who possesses the OBC Certificate issued by a Competent Authority outside Delhi, certifying his/her belonging to a community duly notified as OBC by the Government of National Capital Territory of Delhi shall also be entitled for the benefits of reservation to OBCs in civil posts under Government of National Capital Territory of Delhi. This certificate should have mandatorily been issued on the basis of OBC Certificate issued by Government of National Capital territory of Delhi to his/her father, siblings and real uncles (paternal side only) of the concerned person, who had been residing in Delhi before 8<sup>th</sup> September, 1993.

This issues with the approval of the Competent Authority.”

**62.** As against this, Mr. Bharadwaj submits that the impugned judgment of the Tribunal is unexceptionable. He also places reliance on the judgment of this Bench in *Sandeep Sirohi v GNCTD*<sup>28</sup>.

### Analysis

**63.** As in all such cases, much would pivot on the exact terms of the Clause in the Advertisement which envisages the requirements to be fulfilled by the candidate who seeks the benefit of OBC reservation.

**64.** Clause 6 of the Advertisement stipulates, apropos OBC reservation, that

- (i) instructions/orders/circulars issued by the GNCTD would be applicable,
- (ii) the candidate must be in possession of the relevant certificate on or before the closing date, and
- (iii) the certificate must have been issued by the competent authority in the prescribed format (in Annexure I to the Advertisement).

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<sup>28</sup> 2025 SCC OnLine Del 621



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65. A perusal of the OBC Certificate dated 6 February 2014 issued to the respondent discloses that it has been issued by the DC (North West District), Delhi, and conforms to the format contained in Annexure I to the Advertisement. It was also submitted by the respondent with her application. Conditions (ii) and (iii) in para 64 *supra*, therefore, stand satisfied.

66. Ms. Ahlawat, however, relies on Condition (i). Her contention is that Condition (i) made applicable, *mutatis mutandis*, instructions, orders and circulars issued by the GNCTD. The OBC Certificate dated 6 February 2014, issued to the respondent, does not satisfy the Circulars dated 27 July 2007 and 28 July 2016 and GNCTD OM dated 31 May 2021, as the OBC Certificate was issued on the basis of the OBC certificate issued to the respondent's father in UP; ergo, the respondent is not entitled to be treated as an OBC candidate.

67. We may note that, unlike the case of Jyoti, the respondent in WP (C) 10587/2024, also decided by this judgment, *there is no requirement, in the Advertisement in the present case, of the OBC Certificate having to be issued on the basis of an OBC certificate issued to a near relative of the candidate.*

68. Adverting, now, to the Circulars dated 27 July 2007 and 28 July 2016 issued by the Services Department, and GNCTD OM dated 31 May 2021, we find the position that emerges to be as under.

69. Services Department Circular dated 27 July 2007



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Circular dated 27 July 2007 merely extends the benefit, to Delhi, the benefit of OBC certification notified in the Central list of OBCs. Inasmuch as the respondent is not seeking the benefit of any such reservation of her caste in the Central list, this Circular is of no relevance.

**70. Services Department Circular dated 28 July 2016 and GNCTD OM dated 31 May 2021**

**70.1** Though these instructions would obviously not apply to the present case, as it was issued after Advertisement 01/13, in response to which the respondent applied, their terms are significant.

**70.2** Circular dated 28 July 2016, which was issued in continuation of the Circular dated 27 July 2007, intimated the fact that the GNCTD was accepting, as valid certificates for grant of benefit to OBCs in civil posts under the GNCTD, (i) OBC certificates issued by the Revenue authorities in the GNCTD, on the basis of any old certificate issued to a family member of the candidate from the GNCTD, or (ii) OBC certificates issued by the competent authority outside Delhi, to a person belonging to a community notified as an OBC by the GNCTD, on the basis of the OBC certificate issued by the GNCTD to a family member of the candidate who had been residing in Delhi prior to 8 September 1993.

**70.3** It becomes immediately apparent that the conditions stipulated in the two types of OBC Certificates, to which the Circular dated 27 July 2016 alludes, are the very same conditions which found express



mention in Clause 5 of the Vacancy Notice pursuant to which Jyoti, the respondent in WP (C) 10587/2024, had applied for recruitment.

**70.4** No such conditions stand incorporated in Clause 6 of Advertisement 01/13 in issue in the present writ petition. Instead, Clause 6(ii) required the candidate to be in possession of an OBC certificate issued by the competent authority *in the prescribed format*. The Clause contains no reference to the source from which this “prescribed format” could be found.

**70.5** Annexure I to the Advertisement contains the format of the Declaration to be submitted by the candidate. There is no requirement, either in Annexure I, or in any “prescribed format” to which the Advertisement even makes reference, much less alludes, of the OBC certificate which the candidate is required to produce.

**70.6** We see no reason why, if the DSSSB desired the OBC certificate to have been of the types envisaged in the Services Circular dated 28 July 2016, the said stipulation could not have been incorporated in the Advertisement itself, as was done in the case of the Vacancy Notice pursuant to which Jyoti, the petitioner in WP (C) 10587/2024, applied. These conditions, therefore, were introduced, even in the respondents’ own instructions, only on 28 July 2016.

**70.7** The DSSSB can obviously not seek to apply, to an Advertisement issued in 2013, conditions which were incorporated by the Services Circular dated 28 July 2016.



**70.8** The GNCTD OM dated 31 May 2021, for its part, made the *basis* on which the OBC Certificate had been issued, in the case where it was issued by Revenue authorities in Delhi, wholly insignificant. The OBC Certificate was only required to certify that the candidate belonged to a caste which was notified as an OBC in Delhi.

**70.9** In any event, as already noted, the Circular dated 28 July 2016 and the GNCTD OM dated 31 May 2021 having been issued much after Advertisement 01/13, pursuant to which the respondent applied, their stipulations can have no effect in determining the respondent's entitled to the benefit of OBC reservation.

**70.10** The Circulars dated 27 July 2007 and 28 July 2016, and the GNCTD OM dated 31 May 2021 cannot, therefore, support the case that Ms. Ahlawat seeks to canvas.

**71. Re. the alleged "migrant" status of the respondent**

**71.1** It has further been sought to be contended, in para 2 (viii) of the writ petition, that the OBC Certificate dated 6 February 2014 had been issued to the respondent as a migrant. The OBC Certificate says no such thing, and we are unwilling to read, into the Certificate, something which finds no place therein. In any event, if the DSSSB, or the GNCTD, was of the view that the respondent was not eligible for OBC reservation because her OBC certificate had been issued to her as a migrant, no such mention being found in the OBC Certificate itself, the least that the petitioners were required to do was to put the respondent on notice in that regard and seek a clarification from her.



**71.2** Unlike the case of Jyoti, the respondent in WP (C) 10587/2024, the rejection of the respondent's request for being treated as an OBC applicant is not because of any defect in the OBC certificate produced by her, *vis-à-vis* any stipulation to be found in the Advertisement itself. The petitioners are seeking to justify the rejection on considerations *outside* the Advertisement; in fact, by reading, into the OBC certificate, stipulations not to be found therein. This could not have been done without seeking an explanation from the respondent in that regard.

**71.3** We deem it expedient to reproduce, in this context, para 2 (xix) of the writ petition, which reads:

“(xix) That the Ld Tribunal failed to appreciate that the candidature of the Respondent under the category “OBC” was cancelled on the ground that OBC certificate produced by her was issued on the basis of OBC certificate issued in favour of his (*sic* her) father in the State of UP (being a resident of the said State), i.e., *the OBC certificate issued to him is from outside Delhi, which is valid in State of U.P. only and not in Delhi.*”

In submitting thus, the petitioners seem to have overlooked the fact that it was not her father, but the respondent herself, who was seeking employment. The OBC certificate issued to the respondent was not issued by the Revenue authorities in UP but by the Revenue authorities in Delhi, and entirely fulfilled the stipulations contained in Clause 6 of Advertisement 01/13.

**71.4** *Veena*





**71.4.1** Ms Ahlawat cites, in this context, the judgment of the Supreme Court in *Veena*.

**71.4.2** Despite the fact that the Supreme Court has, times without number, emphasized that Article 141 of the Constitution of India does not require judgments of the Supreme Court to be likened to theorems of Euclid, and that they are to be understood and applied in the light of the facts which were before the Court<sup>29</sup>, we find that the decision in *Veena* is being cited, again and again, unmindful of the fact that *the OBC certificate produced by the respondent in that case was issued by the Revenue authorities outside Delhi*. This is clear from the opening sentence in para 3 of the judgment, which reads:

“The respondent candidates claimed to belong to OBCs on the basis of certificate *issued in a State other than the Government of the National Capital Territory of Delhi*.”

(Emphasis supplied)

*Deepak Bajaj*, in fact, goes on to reproduce, with approval, the following classic exordium of Lord Halsbury in *Quinn v Leatham*<sup>30</sup>:

“Now before discussing the case of *Allen v Flood*<sup>31</sup> 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 are 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.

<sup>29</sup> Refer *Vinay Prakash Singh v Sameer Gehlaut*, 2022 SCC OnLine SC 1595, *UOI v Bharat Forge Ltd*, (2022) 17 SCC 188, *Deepak Bajaj v State of Maharashtra*, (2008) 16 SCC 14

<sup>30</sup> 1901 AC 495

<sup>31</sup> (1898) AC 1



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.”

**71.4.3** In fact, one of the primary contentions of Veena, the respondent before the Supreme Court, was that “there was no obligation on the respondents to produce such certificate from the prescribed authorities in Delhi”. It was in this context that the Supreme Court returned the following findings, in paras 7 and 8 of the judgment:

“7. It is clear that the Government of India had notified on 15-11-1993 two model forms of certificates to be furnished by the OBC candidates seeking benefit of reservations. The form prescribed in Annexure ‘A’ thereto was required to be produced by candidates belonging to OBCs applying for appointment to posts under the Government of India and which certificate was to be verified from prescribed authorities indicated therein and a note was added thereto to the effect that for the Government of the National Capital Territory of Delhi Annexure ‘AA’ was required to be fulfilled. Annexure ‘AA’ prescribes a different kind of certificate which reads as follows:

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A careful reading of this notification would indicate that OBCs would be recognised as such in the Government of the National Capital Territory of Delhi as notified in the notification dated 20-1-1995 and further for the purpose of verification of claims for belonging to castes/communities in Delhi as per the list notified by the National Capital Territory of Delhi *the certificates will have to be issued only by the specified authorities and certificates issued by any other authority could not be accepted*. The Government of India has also issued instructions from time to time in this regard which indicated that a person belonging to OBC on migration from the State of his origin in (*sic* to) another State where his caste was not in the OBC list was entitled to the benefits or concessions admissible to OBCs in his State of origin and the Union Government, but not in the State to which he has migrated. Thus the High Court lost sight of these aspects of the matter in making the impugned order in either ignoring the necessary notifications issued in regard to classification of OBC categories or in the matter of verification thereof. Thus the order made by the High Court in



this regard deserves to be reversed.

8. However, one aspect has to be borne in mind and that is the respondent candidates had made applications as if they belong to OBCs on the basis of the certificates issued by the State from which they migrated to the National Capital Territory of Delhi, but if the certificates issued in their original States of which they are permanent or ordinary residents were not good, the applications should have been treated as if they had been made in the general category and cases of the respondent candidates ought to have been considered in the general category. Therefore, to the extent, the applicants have attained necessary merit in the general list, they deserve to be appointed.”

**71.4.4** The Supreme Court was not, therefore, seized with the issue of the validity of an OBC certificate issued by the Revenue authorities in Delhi. No finding in respect of such an exigency can be read, by implication, into the judgment. The decisions of the Supreme Court already cited *supra* also enunciate the settled proposition that a judgment, even of the Supreme Court, is an authority only for what is stated therein, and not for what may logically seem to follow from it.

**71.4.5** We fail to understand, therefore, how the judgment is being cited as a precedent in cases in which the OBC certificate is issued by the Revenue authorities in Delhi, *especially where the advertisement, pursuant to which the candidate has applied, itself distinguishes between certificates issued by Revenue authorities in Delhi and those issued by Revenue authorities outside Delhi.*

**71.4.6** *Veena*, therefore, in our view, would not apply to a case in which the OBC certificate is issued by the Revenue authorities in Delhi – or, for that matter, in the state in which employment is being sought.



## 71.5 *GNCTD v Ravindra Singh*<sup>32</sup>

**71.5.1** Ms. Ahlawat has also relied on an unreported decision of the Supreme Court in *GNCTD v Ravindra Singh*, specifically on the following passages therefrom:

"3. Applications were invited for the post of Sub-Officer in Delhi Fire Service - Group 'C' post. The age prescribed for the post of Sub-Officer was not exceeding 27 years (relaxable in upper age limit for SC/ST - 5 years). The candidates belonging to OBC were entitled to three years age relaxation. The respondent herein applied for the said post, however, he was not given the age relaxation of three years. Therefore, the respondent approached the Tribunal. It was the case of the respondent/original applicant that though he was found to be more meritorious than the last candidate selected from the OBC category, he has not been appointed. The learned Tribunal dismissed the application. However, by the impugned judgment and order the High Court has allowed the writ petition by observing that in the advertisement, there was no mention of age relaxation with respect to OBC candidates. The High Court observed that the respondent, who belong to OBC ought to have been given the benefit of three years age relaxation. A review application was filed pointing out that as the respondent belong to outside OBC candidate and, therefore, as per the advertisement, he was not entitled to three years age relaxation. The High Court has rejected the review application observing that such a plea was not taken up earlier.

4. Having gone through the impugned Judgment and orders passed by the High Court and even having gone through the advertisement issued in the year 2009 which fell for consideration before the High Court, it was specifically mentioned that a candidate belonging to OBC is entitled to three years age relaxation. In the note, it is also specifically provided that "OBC candidates seeking benefit of reservation *should submit OBC Certificate issued by the Competent Authority of Government of NCT of Delhi. All other OBC candidates with certificate issued from outside Delhi will be considered for the unreserved category only, if eligible otherwise*". Therefore, OBC candidates belonging to outside the Government of NCT of Delhi were considered in the unreserved category.

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<sup>32</sup> Judgment dated 12 September 2022 in SLP (C) 12474-12475/2019



5. *In that view of the matter*, the respondent being OBC outside the Government of NCT of Delhi and as *the condition mentioned in the advertisement was not under challenge*, the respondent was not entitled to the benefit of three years age relaxation and his case was to be considered in the unreserved category. Thereafter, when he was found to be over-age, it cannot be said he was wrongly denied the appointment. When it was pointed out by way of review application, the High Court has refused to consider the review application. The High Court ought to have considered the aforesaid aspect which goes to the root of the matter.

6. In view of the above and for the reasons stated hereinabove, both the appeals succeed. The impugned judgment and order passed by the High Court in the Writ Petition as well as in the Review Application are hereby quashed and set aside. "

**71.5.2 Ravindra Singh**, too, therefore, appears, like *Veena*, to have been a case in which the OBC certificate produced by the candidate was issued by the Revenue authorities outside Delhi. Ergo, it would not apply to the present case.

**72.** To return, now, to the OBC certificate dated 6 February 2014 produced by the respondent, it is clear that it conforms to the stipulations contained in Clause 6 of Advertisement 01/13. The certificate has to be read as it is. It does not purport to have been issued to the respondent merely because she is a migrant. It clearly states that “Nisha, S/o/W/o/D/o Ashok Kumar, Resident of F-153, Vijay Vihar Ph-II Sec-4, Rohini, Delhi belongs to the community JAT which is recognized as Other Backward Class (OBC) as under”, and proceeds to refer to 4 Resolutions and two Notifications which so recognize the community JAT as an OBC. The mere fact that it has been issued on the basis of the OBC certificate issued to the respondent’s father in UP does not deviate from the earlier recitals in



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the Certificate.

**73.** There is no reason, therefore, for the respondent not to be entitled to the benefit of OBC reservation on the basis of the said certificate.

### **Conclusion**

**74.** We, therefore, find no reason to disagree with the Tribunal.

**75.** The impugned judgment dated 10 October 2023, passed by the Tribunal, is, therefore, affirmed in its entirety.

**76.** The writ petition is accordingly dismissed, with no orders as to costs.

**C. HARI SHANKAR, J.**

**AJAY DIGPAUL, J.**

**JULY 1, 2025**

Aky/yg

*Click here to check corrigendum, if any*