IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4840 of 2025

Decided on: 17th July, 2025

Rasham **.....Petitioner**

Versus

State of H.P. and others **.....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1] Yes.

For the Petitioner: Mr. Yogesh Kumar Chandel, Advocate.

For the Respondents: Mr. Y.P.S. Dhaulta, Additional Advocate General with Mr. Rajat Choudhry, Assistant Advocate General, for respondents No.1 and 2.

Mr. Sandeep K. Pandey, Advocate, for respondent No.3.

Respondent No.4 ex-parte.

Jyotsna Rewal Dua, Judge

Respondents did not consider the OBC certificates produced by the petitioner at the time of document verification for appointment to the post in question on the ground of same being not in conformity with the advertisement. Feeling aggrieved, the petitioner has instituted this writ petition.

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[1]**Whether reporters of print and electronic media may be allowed to see the order? Yes.**

2. The case

2(i). Respondent No.3 issued an advertisement on 19.09.2022 (Annexure P-1) inviting online recruitment applications from desirous and eligible candidates for recruitment *inter alia* to the post of Laboratory Technician to be filled up on contract basis in the National Health Mission. The applications could be submitted upto 02.10.2022. Out of total 36 posts of Laboratory Technicians advertised, 05 were meant for Other Backward Classes (OBC) of Himachal Pradesh.

2(ii). In accordance with the advertisement, the candidates belonging to OBC of Himachal Pradesh were to produce OBC certificate on the prescribed format valid till the relevant term of Financial Year (i.e. **1st April to 31st March**) as notified by the Government of Himachal Pradesh (Department of Revenue) in Rajpatra dated 09.01.2012. It was also stipulated in the advertisement that the candidates must have a valid OBC certificate covering the entire period from last date of submission of online applications till date of document verification/selection alongwith an undertaking that his status as OBC has not been changed and he has not been excluded from the

category of OBC of Himachal Pradesh on account of being covered under creamy layer.

2(iii). Petitioner participated in the selection process as OBC candidate of Himachal Pradesh. Alongwith his application, he uploaded OBC certificate issued to him on 22.07.2021 (Annexure P-6), which certified that 'he is not part of (Creamy Layer) as per the Income Certificate issued for the financial year 2021-2022'.

2(iv). Respondents declared category-wise result for the post of Laboratory Technician. Name of the petitioner figured at Sr. No.102 of the merit list with score of '5' marks (Annexure P-2). The eligible candidates on the basis of aforesaid result, were called for document verification vide office order dated 25.03.2023 (Annexure P-3). The documents were to be verified on 31.03.2023. Petitioner accordingly appeared for document verification. At that time, he also produced his OBC certificate issued on 29.03.2023 (Annexure P-7), certifying that 'he is not part of (Creamy Layer) as per the Income Certificate issued for the financial year 2022-2023'. No further action was taken by the respondents for quite some time.

2(v). It was on 30.10.2024 (Annexure P-4) that appointment letters were issued for the post of Laboratory

Technician. Name of the petitioner did not figure in the list of candidates, who were offered the post of Laboratory Technician. Name of respondent No.4 though figured at the end of the list at Sr. No.28, however, as would be apparent from the category-wise result of Lab Technician (Annexure P-2) and as canvassed by learned counsel for the petitioner, respondent No.4 had participated in the selection process as OBC of Himachal Pradesh and figured at Sr. No.107 of the merit list with 3.75 marks as against 05 scored by the petitioner.

2(vi). Having not been offered appointment to the post of Laboratory Technician and appointment of lesser meritorious candidate, i.e. respondent No.4, to the post in question as OBC candidate, petitioner represented to the respondents (Annexure P-10). The respondents furnished their response on 21.12.2024 (Annexure P-11), justifying not offering appointment to the petitioner for the following reason:-

> *"Upon scrutiny of the certificates submitted by you, it has been observed that the issuance dates of the certificates are 22.07.2021 (valid until 21.07.2022) and 29.03.2023 (valid until 28.03.2024). It is therefore evident that no valid certificate existed on the crucial date for determining eligibility, i.e., 02.10.2022 (the closing date for submission of the application).*
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> *Moreover, as per Notification No.Rev.B.A.(3)-1/2004-Vol-I dated 09.01.2012 (copy enclosed), issued*

by the Department of Revenue, which amended Chapters 8 and 28 of the Himachal Pradesh Land Records Manual, 1992, Point 28.7 (Validity of Certificates) explicitly provides:

> *"The Bonafide Himachali, Scheduled Caste, Scheduled Tribe, Ward of freedom fighters, Dogra class, community and legal heir certificates shall be permanent certificates. The other certificates shall remain valid till the relevant term of the financial year."*

In light of the aforementioned statutory requirements, documentary evidence, and the material facts on record, your candidature is adjudged to be non-compliant with the prescribed eligibility criteria. Accordingly, it cannot be considered further."

According to the respondents, the OBC certificates dated 22.07.2021 and 29.03.2023 produced by the petitioner at the time of document verification, did not cover the entire period from the closing date for submission of online applications, i.e. 02.10.2022, till the date of document verification, i.e. 31.03.2023. That no valid certificate existed for determining Petitioner's eligibility as an OBC candidate on the crucial date, i.e. 02.10.2022 (closing date for submission of applications).

2(vii). In the aforesaid background, the petitioner has instituted this writ petition seeking following substantive reliefs:-

> *"i) That the writ in the nature of certiorari may kindly be issued to quash and set aside office rejection order dated 21-12-24 i.e. annexure P-11 and appointment of respondent no.-4 as per appointment order dated 31-10-*

24 i.e. Annexure P-4 may also be quashed and set aside.

ii) *That the writ in the nature of the mandamus may kindly be issued to the respondent no.-2 to consider the petitioner eligible for recruitment process of Laboratory Technician posts in OBC category initiated as per annexure P-1 and the respondent no-2 may kindly be directed to issue the appointment letter to the petitioner as Laboratory Technician in OBC category."*

3. Submissions:-

Learned counsel for the petitioner contends that the respondents have misconstrued the terms of the advertisement and clear stipulation in notification dated 09.01.2012 vis-à-vis the OBC certificates produced by the petitioner at the time of document verification. In terms of the said certificates, petitioner was OBC throughout w.e.f. 02.10.2022 till 31.03.2023. His certificates have been wrongly treated as not covering the period in question.

Learned Additional Advocate General on the basis of reply filed by the respondents submitted that alongwith application form, the petitioner had furnished the OBC certificate issued to him on 22.07.2021. The said certificate was valid for one year from the date of issue, i.e. till 21.07.2022. This certificate had lost its validity on the last date of applying for the post, i.e. 02.10.2022. The second OBC certificate produced by the petitioner at the time of document verification was issued to him on

29.03.2023 with validity of one year from the date of issue, i.e. till 28.03.2024. The petitioner, thus, was not having any valid certificate w.e.f. 22.07.2022 to 28.03.2023. As per the advertisement, the petitioner was required to have OBC certificate with its validity covering the entire period from the last date of submission of applications (02.10.2022) till the date of document verification (31.03.2023). Since the petitioner failed to produce such certificate, respondents' action in rejecting his candidature was justified.

Learned counsel for the respondent No.3 adopted the stand taken by respondents No.1 and 2. The selected candidate-respondent No.4 though stands served, but has chosen not to contest the petition. He has been proceeded against ex-parte.

4. I have **heard** learned counsel for the parties and considered the case file.

In my considered view, the respondents have misconstrued the stipulation in the advertisement and the notification dated 09.01.2012 vis-à-vis validity of the OBC certificates produced by the petitioner.

4(i). The advertisement issued on 19.09.2022 specifically provided as under with regard to furnishing OBC Certificates of Himachal Pradesh:-

> *"1. OBC of H.P. (Other Backward Classes of Himachal Pradesh):-*
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> *The candidates belonging to OBC of H.P. category must produce OBC certificate(s) on the prescribed format* ***valid till the relevant term of the Financial Year (i.e. 1st April to 31st March) as notified by the Government of Himachal Pradesh (in the Department of Revenue) in Rajpatra dated 09th January, 2012.*** *Candidates must have a valid OBC Certificate covering the entire period from last date of submission of online applications till date of document verification/selection along with an undertaking that his/her status as OBC has not been changed and he/she has not been excluded from the category of O.B.C. of H.P. on account of being covered under creamy layer."*

At this stage, it would also be prudent to take note of the notification dated 09.01.2012 issued by the State Revenue Department, as published in the Rajpatra on 09.01.2012, on the basis of which, the validity of the OBC certificates produced by the candidates was to be determined as per the advertisement. Notification dated 09.01.2012 substituted Chapter 28 of the Himachal Pradesh Land Records Manual, 1992. Relevant to the context is Clause 28.7 thereof that deals with validity of certificates and reads as under:-

> *"Validity of Certificates*
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> *28.7. The Bonafide Himachali, Scheduled Caste, Scheduled Tribe, Ward of freedom fighters, Dogra class, community and legal heir certificates shall be permanent certificates.* ***The other certificates shall remain valid till the relevant term of the financial year."***

According to the above extracted clause, Bonafide Himachali, Scheduled Caste, Scheduled Tribe, Ward of freedom fighters, Dogra class, community and legal heir certificates, would be permanent certificates. All other certificates shall remain valid till the relevant term of the financial year. This is also the stipulation in the advertisement regarding validity of OBC certificate of candidates of Himachal Pradesh. As per the advertisement dated 19.09.2022, the said certificates have to be valid till the relevant term of financial year in terms of the notification dated 09.01.2012.

4(ii). Thus, in accordance with the advertisement, the OBC certificate should have been valid till the relevant term of the financial year. Validity was to be in terms of the notification dated 09.01.2012. The said notification clearly stipulates that but for the certificates specifically mentioned therein, all other certificates including OBC certificate, would remain valid till the relevant term of the financial year.

4(ii)(a). The petitioner had admittedly produced two original OBC certificates at the time of document verification on 31.03.2023. The first OBC certificate was

issued to the petitioner on 22.07.2021. Relevant part of the certificate reads as under:-

> *"It is certified that Mr. Rasham Son of Mr. Manjeet Resident of Muhal Maira Batrah Tehsil Nurpur Distt. Kangra H.P. belongs to Jheer which is recognized as Other Backward Class in Himachal Pradesh by Government.*
>
> *Mr. Rasham and his/her family ordinarily resides in Muhal Maira Batrah Tehsil Nurpur of District Kangra of state. This is also to certify that he/she is not part of (Creamy Layer) as per the Income Certificate issued for the financial year 2021-2022."*

Thus, the above certificate was valid for the financial year 2021-2022. Even though the certificate was issued on 22.07.2021, it was to remain valid only till 31.03.2022. This is despite the fact that at the top of the certificate, its validity has been mentioned as one year from the date of issue. This is more so in view of the notification dated 09.01.2012 issued by the State in the Gazette, which gives validity to the OBC certificate till the relevant term of the financial year. Relevant term of the financial year is clearly mentioned in the aforesaid OBC certificate. The OBC certificate dated 22.07.2021 was thus valid for financial year 2021-2022 and covered the period from 01.04.2021 to 31.03.2022. This certificate, however, is irrelevant for the purpose of advertisement, which invited applications by

02.10.2022 and whereunder documents were to be verified on 31.03.2023.

4(ii)(b). The second OBC certificate produced by the petitioner at the time of his document verification was issued on 29.03.2023. Relevant portion of the certificate reads as under:-

> *"It is certified that Mr. Rasham Son of Mr. Manjeet Resident of Village/Muhal Maira Batrah Tehsil Nurpur Distt. Kangra H.P. belongs to Jheer which is recognized as Other Backward Class in Himachal Pradesh by Government.*
>
> *Mr. Rasham and his/her family ordinarily resides in Village/Muhal Maira Batrah Tehsil Nurpur of District Kangra of state. This is also to certify that he/she is not part of (Creamy Layer) as per the Income Certificate issued for the financial year 2022-2023."*

Though at the top of OBC certificate dated 29.03.2023, its validity was stated to be one year from the date of issue, however, the aforesaid document certifies the petitioner to be an OBC of Himachal Pradesh for the financial year 2022-2023, i.e. with effect from 01.04.2022 to 31.03.2023. This period of financial year 2022-2023 covers the period for which the petitioner was required to be in possession of OBC certificate in terms of the advertisement. Respondents appear to have been swayed away by the validity of the OBC certificates mentioned at the top of the said certificates. The validity mentioned at the

top of the certificates becomes insignificant in view of what has been certified in the said certificates, which is otherwise in sync with the notification dated 09.01.2012 and also satisfies the requirement of the advertisement. It is the fact certified in the certificate that is material. If that certification is about status as OBC for a specific period and if the certification regarding the period of OBC status differs from a cyclostyled period, casually mentioned at the top of the certificate, the actual certificate with respect to period of OBC status will take precedence. More so, when the period of OBC status as certified in the certificate is in consonance not just with the requirements of the advertisement, but also with the Gazette notification dated 09.01.2012. In ***Shri Nashik Panchavati Panjarpol Trust & Ors. Versus The Chairman & Anr.***[2], Hon'ble Apex Court held that it cannot be gainsaid that as per the rules of doctrine of harmonious construction, the document has to be read as a whole and in its totality. If there is any ambiguity either patent or latent, in any of the clauses of the document, the courts should interpret such clause in such manner, which is consistent with the other clauses and with the purpose and intent of the parties executing it.

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[2] 2023 SCC Online SC 1046

The OBC certificate of the petitioner dated 29.03.2023 covered the entire period, for which he was to have valid certificate for participating in the selection process. Petitioner's status as OBC did not change w.e.f. 22.07.2021 till 31.03.2023 has also been certified by Annexure P-8. The respondents erred in rejecting his OBC certificates as not covering the period.

5. Hence, for all the aforesaid reasons, this writ petition is allowed. Impugned communication dated 21.12.2024 (Annexure P-11), rejecting the candidature of the petitioner as an OBC candidate for appointment as Laboratory Technician, is quashed and set aside. The respondents are directed to consider the OBC certificate of the petitioner dated 29.03.2023 as valid & covering the period w.e.f. 01.04.2022 to 31.03.2023 and take further action in the matter based upon his result by taking it to the logical conclusion within a period of four weeks from today.

The State Revenue Department, through the office of learned Advocate General, is directed to issue suitable directions to all concerned offices to issue certificates as per Gazette notification dated 09.01.2012

and not to issue certificates with ambiguous validity periods.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.

Jyotsna Rewal Dua
Judge

July 17, 2025
Mukesh