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

Date of decision: 25.04.2025

+ W.P.(C) 5326/2025

GOVT OF NCT OF DELHI AND ORSPetitioners

Through: Mrs. Avnish Ahlawat, Standing Counsel, GNCTD with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushak, Ms. Aliza Alam, Mr. Mohnish Sehrawat, Mr. Amitoj chadha, Adv.

versus

DURGESH KUMARRespondent

Through: Mr. Diparsh Mishra, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (Oral)

CAV 151/2025

1. As Mr. Diparsh Mishra, Adv. enters appearance on behalf of the respondent, the caveat stands discharged.

CM APPL. 24268/2025 (Exemption)

2. Allowed, subject to all just exemptions.

W.P.(C) 5326/2025 & CM APPL. 24267/2025

3. This petition has been filed by the petitioner, challenging the Order dated 20.12.2024 passed by the learned Central Administrative



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Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal'), in Original Application No. 2425/2024 (O.A.), titled ***Durgesh Kumar v. The GNCTD & Ors.***, allowing the said O.A. filed by the respondent herein, with the following directions:-

“10. In the light of the above, we are of the considered opinion that this OA has merit and deserves to be allowed. The same is accordingly allowed. We accordingly quash and set aside the impugned Deficiency Memo No.DE.3(29)/DRC(EIII)/ TGT(N. Sc.) Male/Dossier No./2022/2271 dated 04.07.2023 as well as the cancellation/rejection order No. DE.3 (29)/(17)/DRC/E-III/TGT(N. Sc.)/Male/2022/4215-19 dated 13.05.2024 and direct the respondents to verify the admissibility of the EWS Certificate issued to the applicant by the competent authority, within a period of 30 days and hereafter if the Certificate is found to be admissible as per rules and regulations on the subject, consider issuing offer of appointment to the applicant within a period of 45 days from the date of receipt of the certified copy of this order. The applicant would be entitled to all consequential benefits like fixation of pay, seniority and promotion on notional basis. However, there will be no payment of arrears of pay and allowances on the principles of 'No work no pay'.”

4. As a brief background of the facts in which the present petition arises, the petitioners, through the Delhi Subordinate Service Selection Board (DSSSB), issued an advertisement notification no. 2/21 dated 12.05.2021, advertising vacancies for TGT (Male)/(Female) for various subjects, and Assistant Teacher (Primary). In the advertisement for the post reserved for EWS/SC/ST/OBC/Non-



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Creamy Layer/PWD/Education Experience etc., the condition for the requisite PWD and other special category certificate was prescribed as under: -

“6. RESERVATION BENEFITS:

xxxxxx

(ii) Candidates who wish to be considered against reserved vacancies and/or to seek age relaxation, must be in possession of relevant certificates (EWS/SC/ST/OBS/ Non Creamy Layer/PWD/Educational/Experience etc.) issued by the competent/notified authority (in prescribed format) on or before the cut off 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. The candidate has to select that particular category when applying online for the Post. No request for change of Category will be entertained at any later stage.”

5. The respondent applied for the post of TGT (Natural Science) Male, and in support of his claim under the EWS category, submitted a certificate dated 02.02.2021 issued by the Tehsildar (Faridabad), which reads as under:-

**“Certificate No.: EWS/2021/36 Date:
02/02/2021
VALID FOR THE YEAR: 2021-22**

This is to certify that Sh. DURGESH KUMAR son of Shri SUNIL KUMAR permanent resident of House No-D2/143, Street No-,, Land Mark-SHIV DURGA VIHAR, LAKKARPUR NHPC COLONY, Pincode-121010, Town FARIDABAD, Post Office FARIDABAD, District FARIDABAD in the State HARYANA Pin Code 121010 whose



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*photograph is attested below belongs to Economically Weaker Sections, since the gross annual income of his/her "Family** is below Rs. 8 lakh (Rupees Eight Lakh only) for the financial year 2020- 21. His/Her family does not own or possess any of the following assets***

I. 5 acres of agricultural land and above.

II. Residential flat of 1000 sq. ft. and above.

III. Residential plot of 100 sq. yards and above in notified municipalities.

IV. Residential plot of 200 sq. yards and above in areas other than the notified municipalities

2. Shri DURGESH KUMAR belongs to the 'BRAHMAN' caste which is not recognized as a Scheduled Caste, Schedule Tribes and Other Backward Classes (Central List). "

6. The candidature of the respondent, however, was rejected by way of a Deficiency Memo dated 04.07.2023, which reads as under:-

*“DE 3(29)/DRC(E-III) TGT/(N.Sc.) –
Male/Dossier No. /2022/2271*

DEFICIENCY MEMO

During the course of scrutiny of documents available in e-dossiers, in respect of Mr. Durgesh Kumar (Roll No: 1125035000482) for the post of TGT (Natural Science) _ Male (Post Code 35/21), following deficiency/ deficiencies have been noticed and accordingly your candidature has been kept pending for want of deficient/requisite documents:-

1. EWS Certificate should be issued between 01/04/2021 to 04/07/2021 instead of 02.02.2021 for the Financial year 2021-22.

You are therefore directed to submit your clarification in person along with deficient/requisite documents as mentioned



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above to Direct Recruitment Cell (E-III), Next Building from MP hall, Lancer Road, Behind Vishwavidyalaya Metro Station, Delhi-110054 latest by 11/07/2023, failing which your candidature may be cancelled as per prescribed RRs/Guidelines.”

7. The learned Tribunal, however, has set aside the rejection order by placing reliance on the judgment of this Court in ***All India Institute of Medical Sciences (AIIMS) v. Kiran Grover***, 2024 SCC OnLine Del 5044. Aggrieved thereby, the petitioners have filed the present petition.

8. The learned counsel for the petitioner reiterates that as the EWS certificate had been issued on 02.02.2021, it cannot relate to the financial year 2021-22 and, therefore, was not a valid certificate.

9. On the other hand, the learned counsel for the respondent, who appears on advance notice of this petition, submits that the same issue has been considered by this Court in its judgment of ***Kiran Grover*** (supra), and the submission similar to the one raised by the petitioners herein, has been rejected.

10. He further submits that the State of Haryana has issued a clarification dated 22.05.2024, certifying that even though the EWS certificate(s) have been issued prior to the completion of the financial year, it relates to the full financial year. The clarification given by the State of Haryana so far as it is relevant, is reproduced hereinunder:-

“2 Government of Haryana wishes to express its deep concern about the withdrawal of appointment fetters in many cases and the prospects thereof in some cases still under consideration of Directorate of Education of Delhi Government, of meritorious youth of



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Haryana, The Government of Haryana after meticulous consideration of the issues clarifies that the candidature of the candidates cannot be cancelled merely on any one or more of the grounds stated above because of the following reason :-

(i) The EWS certificates in Haryana are issued keeping in view the average fixed income and assets for the complete financial year, immediately upon an application being made to the competent authority, no matter what the date of application whether or not before completion of the financial year Therefore, the EWS certificates issued before the completion of the financial year 2020-21, i.e. during the period between 1st January and Stat March 2021, submitted by the candidates who are covered under 1 (i) above should be treated valid for the year 2021-22.

(ii) Regarding acceptance of EWS Certificate issued by the Naib Tehsildar instead of Tehsildar submitted by the applicants/candidates of Haryana it is clarified that-

(a) Haryana Government in the Schedule to Right to Service Act, 2014 has authorized both Tehsildar and Naib-Tehsildar to issue EWS Certificates to the persons residing in Haryana.

(b) In another case of similar nature, it has already been clarified by Haryana Government vide letter No. 22/227/2023-JHR-III, dated 7th December 2023 (Copy enclosed) addressed to UPSC/DoPT that State Government has decided to treat the EWS certificates issued by the NaibTehsildar as true and genuine. In fact, such EWS certificates issued by the Naib Tehsildar have also been accepted by UPSC/DOPT.



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(c) In CWP 8502 of 2017 (O&M) it has been held by the Hon 'ble Punjab and Haryana High Court that “ ... The power and duties of Tehsildar and Naib Tehsildar are of similar nature. The Tehsildars and Naib Tehsildars have powers of Executive Magistrate to maintain law and order. Their powers and functions include Maintenance and Updating Revenue Record, Registration of documents and recovery of Government dues.

Therefore, experience/service rendered as Naib Tehsildar and Tehsildars is similar.” Therefore, EWS certificates issued by Naib Tehsildar for candidates of Haryana referred to at I(ii) above should be treated as valid.

(iii) Regarding applicants/candidates who are covered under I(iii) above, it is informed that Haryana Government launched income certificates generation via the portal <https://saralharyana.gov.in> during the year 2021-22 to issue online certificates of all kinds including Caste Certificates/Income Certificates/EWS Certificates etc. which were previously being issued by different relevant Departments of Haryana Government. It is also clarified here that in the previous system it would have been possible for a candidate to obtain two different EWS Certificates verifying the income at two different levels by approaching the relevant Department with two different sets of affidavits at two different dates. With the launch of the said portal this possibility has been completely pre-empted. There is a unique Family ID for every family and the verified annual income of every family for every year is available in the State level database. The moment a candidate applies for EWS Certificate on the SARAL portal, it fetches the income and caste data from the



said database. There is no scope for the competent authority (Tehsildar or NailbTehsildar etc.) to make any change to the verified income of the previous year. Therefore, in this system, the candidate may generate his certificate in any of the months. Many candidates who submitted the EWS certificate issued after the last date of submission of application might not have been aware of the newly launched portal by Haryana Government and consequently, they may not have been able to generate their own EWS Certificate in time. It is, therefore, requested that the EWS Certificate generated after the last date for the candidates referred to at 1 (iii) above may also be accepted because they truly capture the actual verified income for the previous year. It is further added that no cut-off date need be fixed for the purpose of Caste Certificate of candidates of reserved category because caste stays the same at all times. Similarly, the verified family income of the candidates residing in Haryana is available in the database on an annual basis at all times and remains unchanged for a particular period in the financial year. Therefore, the mere fact of submission of EWS Certificate which was issued after the cut off date cannot legally be treated as valid ground for cancellation of candidature.

3. In view of the above, you are requested to consider the EWS Income and Asset Certificates issued by the Competent Authority during the period between 1st January and 31st March 2021, before or after the last date as valid and allow the respective candidates to continue/join back their duties. It is also requested that a similar decision may also be taken for all other selected candidates of Haryana having similar EWS Certificates, where cases for cancellation of



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candidature/withdrawal of appointment letter are in pipeline in Directorate of Education or any other department of Delhi Government on any of the grounds mentioned in para 1 above. If required, Government of Haryana can depute the Director General, Human Resources, Haryana to meet with the Director of Education or any other authority to work out the details of all the candidates of Haryana whose appointment may be in process of cancellation and provide any further detailed justification for each case wherever felt necessary by him.”

(emphasis supplied)

11. We have considered the submissions made by the learned counsels for the parties.

12. In the present case, we note that the advertisement merely stated that the candidate has to produce the relevant certificate issued by the competent/notified authority, in the prescribed format, on or before the cut-off date (closing date of the advertisement). It was not mentioned that the certificate must be issued between two given dates. The respondent, in the present case, has produced before the petitioners a certificate dated 02.02.2021 issued by Tehsildar, Faridabad. There is no dispute that the said authority is duly recognized by the petitioners as the competent authority to issue a certificate. The certificate is stated to be valid for the year 2021-22 and certifies that the income of the family of the respondent for the financial year 2020-21 meets the given criteria for the EWS category.

13. As the petitioners were rejecting the candidature of persons who had given similar certificates, which were issued prior to 01.04.221,



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the State of Haryana issued a clarification dated 22.05.2024, which we have reproduced hereinabove and which clarifies that a certificate, though issued prior to the completion of the financial year, should be treated as being valid as it is issued keeping in view the average fixed income and assets for the complete financial year. Taking note of the said clarification, this Court in **Kiran Grover** (supra) rejected a similar plea similar to the one raised by the petitioners herein, and observed as under:-

“16. Upon hearing and perusal of material placed before us, this Court finds that it is not in dispute that the respondent was in possession of a valid EWS Certificate on 15.01.2021 in a specified format. However, it appears that the said certificate issued on 15.01.2021, has been construed by the petitioner authorities as having been issued w.e.f. 01.04.2022 and the petitioner in denying and refusing the said certificate have said that it cannot be in piecemeal and cannot have been issued in the middle of the year. What the learned counsel for the petitioner would contend is that the complete financial year should have been taken into consideration while issuing the EWS Certificate. It is also seen that there is a serious contradiction in the impugned order dated 31.10.2022 itself, wherein in the first para it has been stated that a valid EWS certificate must be issued between the period of 01.04.2021 and 31.03.2022 as per the advertisement but in the later paragraph it has been contended that the EWS certificate must be issued during the period from 01.04.2020 to 18.08.2020.

17. It is worth to be noted that the petitioner had neither gone into nor had carefully examined both the certificates issued by the competent authority; the first EWS



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certificate dated 15.01.2021 and the further clarification issued by the same authority dated 02.05.2022; which explicitly states that the said certificate is valid from 01.04.2021 to 31.03.2022 (Year 2021-2022), i.e. the relevant financial year according to the certificate. Both the certificates are to be read in conjunction with each other. It would have been incumbent on the petitioner-authority before cancelling the candidature of the respondent to properly ascertain whether the said certificate is valid.”

14. In the peculiar facts of the present case, where the advertisement itself does not state that the certificate must be issued post 01.04.2021 and the State of Haryana has clarified that though the certificate is issued prior to 01.04.2021 but relates to the entire financial year of 2021-22, we find no infirmity in the Impugned Order passed by the learned Tribunal and its ultimate direction.

15. Accordingly, we find no merit in the present petition. The same is dismissed. The pending application also stands disposed of.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 25, 2025

Ab/mn/DG

[Click here to check corrigendum, if any](#)