



2025:DHC:2878-DB



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

*Date of decision: 23.04.2025*

+ W.P.(C) 5166/2025  
GOVT OF NCT OF DELHI AND ORS

.....Petitioners

Through: Mrs.Avnish Ahlawat,  
SC/GNCTD (Services) with  
Mr.Nitesh Kumar Singh,  
Ms.Laavanya Kaushik,  
Ms.Aliza Alam, Mr.Mohnish  
Sehrawat & Mr.Amitoj Chadha,  
Adv.

versus

MS RAJBALA

.....Respondent

Through: Mr.Diparsh Mishra, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**NAVIN CHAWLA, J. (ORAL)**

**CM APPL. 23499/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

**W.P.(C) 5166/2025 & CM APPL. 23498/2025**

2. This petition has been filed by the petitioners, challenging the Order dated 14.01.2025, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'learned Tribunal'), in O.A. No. 2434/2024, titled *Rajbala v. Govt. of NCT of Delhi & Ors.*, allowing the said O.A. filed by the respondent herein, with the following directions:-



*“7. In light of the above, we are of the considered opinion that this OA has merit and deserves to be allowed. We accordingly quash and set aside the impugned Rejection/cancellation Order No. DE.3(34)/DRC/(E-III)/ TGT(Social Science)/Female/2023/4192-4195 dated 08.05.2024 and direct the respondents to verify the admissibility of the Income & Asset Certificate issued by Tehsildar, Bahadurgarh within a period of 30 days and thereafter if the Certificate is found admissible as per rules and regulations on the subject, consider issuing offer of appointment to the applicant within 45 days from the date of receipt of the certified copy of this order. The applicant would be entitled to all consequential benefits like seniority and promotion on notional basis. However, there will be no payment of arrears of pay and allowances on the principle of ‘No work no pay.’”*

3. As a brief background of the facts in which the present petition arises, the petitioners, through 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-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.”*

4. The respondent applied for the post of TGT (Social Science) Female, and in support of her claim under the OBC/Non-Creamy Layer, submitted a certificate dated 01.02.2021 issued by the Tehsildar, Bahadurgarh, which reads as under:-

***"Certificate No.: EWS/2021/699 Date: 01/02/2021***

***VALID FOR THE YEAR: 2021-22***

*This is to certify that Kumari RAJBALA daughter of Shri VEDPARKASH permanent resident of House No-0, Street No-0, LandMark- VPO, BHAPRODHA, Post Office BHAPRODA District JHAJJAR in the State HARYANA Pin Code 124501 whose 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. Kumari RAJBALA belongs to the 'JAAT' caste which is not recognized as a Scheduled*



*Caste, Schedule Tribes and Other Backward Classes (Central List)."*

5. The candidature of the respondent, however, was rejected by the petitioners on basis of a direction of the Deputy Secretary, Services IV Branch in the U.O. Note bearing no. F.19(07)/2020/S-IV/226, which stated as under:-

*"Further, regarding the cases where the certificates were issued before completion the period for which income is to be computed, were also not found to be as per the DoPT norms, hence such cases may also not be entertained."*

6. 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.

7. The learned counsel for the petitioners reiterates that as the OBC/Non-Creamy Layer certificate had been issued on 01.02.2021, it cannot relate to the financial year 2021-22 and, therefore, was not a valid certificate.

8. 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.

9. 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 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 1<sup>st</sup> 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 7<sup>th</sup> December 2023 (Copy enclosed) addressed to UPSC/DoPT that State Government has decided to treat the EWS certificates issued by the Naib Tehsildar as true and genuine. In fact, such EWS certificates issued by the Naib Tehsildar have also been accepted by UPSC/DOPT.*

*(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*





*during the period between 1<sup>st</sup> January and 31<sup>st</sup> 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 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)

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

11. 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 01.02.2021 issued by Tehsildar, Bahadurgarh. 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 2021-22 meets the given criteria for the Non-Creamy Layer.

12. As the petitioners were rejecting the candidature of persons who had given similar certificate, which were issued prior to 01.04.2021, 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 that the petitioner had neither gone into nor had carefully examined both the certificates issued by the competent authority; the first EWS 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.”*

13. In the peculiar facts of the present case, where the advertisement itself does not states that the certificate must be issued post 01.04.2021 and the State of Haryana having 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.

14. 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 23, 2025/rv/ik**

*Click here to check corrigendum, if any*