THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14205 of 2016

(An application under Articles 226 and 227 of the Constitution of India)

Luice Mohanty ……. ***Petitioner***

-Versus-

District Judge, Sundargarh and Another ……. ***Opp. Parties***

For the Petitioner : Mr. Kousik Ananda Guru, Advocate

For the Opp. Parties : Mr. Debaraj Mohanty, AGA

CORAM:

THE HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

&

THE HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 11.02.2026 :: Date of Judgement: 25.02.2026

S.S. Mishra, J. The present writ petition has been filed under Articles 226 and 227 of the Constitution of India calling in question the common merit list dated 07.05.2016 published by the Registrar, Civil Courts, Sundargarh in connection with recruitment to the post of Junior Clerk-cum-Copyist for the year 2015-16.

2. The grievance of the petitioner pertains to the selection of one Itismita Bal (Roll No. JCC-071), who has been reflected as selected

under the Unreserved category in the common merit list dated 07.05.2016, though she had applied for the post under the SEBC category. The petitioner contends that such placement under the Unreserved category resulted in her non-selection, despite her having applied under the Unreserved category pursuant to the advertisement.

The factual backdrop, shorn of unnecessary details, is that the Office of the District Judge, Sundargarh issued an advertisement dated 03.09.2015 inviting applications in the prescribed format from eligible candidates for recruitment to the posts of Junior Clerk-cum-Copyist, Junior Typist and Junior Stenographer (Grade-III), all belonging to Group-C category. The last date for submission of applications was fixed as 30.09.2015.

Pursuant to the said advertisement, the petitioner submitted her application for the post of Junior Clerk-cum-Copyist under the Unreserved category. She was assigned Roll No. JCC-023 by letter dated 27.11.2015 and was permitted to appear in the written examination conducted on 20.12.2015.

Upon qualifying in the written examination, the petitioner was intimated vide letter dated 18.04.2016 and was called upon to appear in the computer test scheduled on 07.05.2016, with an indication that candidates qualifying therein would be required to appear in the viva-voce test on the same day. The petitioner participated in the computer test and, having qualified, also appeared in the viva-voce test held on 07.05.2016.

On 07.05.2016, the Registrar, Civil Courts, Sundargarh published the common merit list for the post of Junior Clerk-cum-Copyist. In the said merit list, the petitioner was placed at Serial No.5 under the Unreserved category, whereas Itismita Bal (Roll No. JCC-071) was placed at Serial No.4 under the Unreserved category and was subsequently appointed.

3. The petitioner contends that since Itismita Bal had applied under the SEBC category, her selection and placement under the Unreserved category is contrary to the terms of the advertisement and the applicable recruitment rules, and has resulted in violation of Articles 14 and 16 of the Constitution of India.

4. Learned counsel appearing for the petitioner has advanced elaborate submissions on merits, primarily alleging undue favouritism and manipulation in the selection process. It is contended that Opposite Party No.2, who had applied under the SEBC category, relied upon an SEBC certificate issued in the year 2012, i.e., nearly four years prior to publication of the merit list dated 07.05.2016. According to the petitioner, the said certificate ought to have been duly scrutinized and verified at the time of preparation of the merit list to ascertain whether Opposite Party No.2 continued to satisfy the criteria of Socially and Educationally Backward Class and had not entered the creamy layer during the intervening period.

It is further submitted that the affidavit furnished by Opposite Party No.2 before the competent authority for issuance of the SEBC certificate specifically stated that the certificate was to be utilized for the purpose of higher education. Despite such declaration, the same certificate was allegedly used for the purpose of seeking public employment. The petitioner contends that such use is impermissible and casts serious doubt on the validity and bona fides of the candidature of Opposite Party No.2.

It is also argued that having applied under the SEBC category, Opposite Party No.2 could not have been considered and selected under the unreserved category in deviation of the terms of the advertisement and the applicable recruitment rules. The petitioner submitted that such action amounts to arbitrariness, confers an unwarranted advantage upon Opposite Party No.2, and is indicative of undue favouritism on the part of the District Court authorities. The entire selection process, to that extent, is therefore assailed as being vitiated by illegality and is stated to be unsustainable in the eye of law.

On the aforesaid premises, it is prayed that the common merit list dated 07.05.2016, in so far as it relates to the selection of Opposite Party No.2, be set aside and the petitioner, being next in order of merit under the unreserved category, be appointed in her stead.

5. On the contrary, learned Counsel for the State has vehemently opposed the aforesaid submissions and has alleged that the averments made in the writ petition are baseless and devoid of any cogent reasoning. It is argued that, as per the established principle of law, a

certificate issued by the competent authority shall remain valid and operative unless and until the same is cancelled or declared invalid by the issuing authority in accordance with law.

On the next limb of submission, it is contended that though the affidavit sworn in by the candidate may mention the purpose for which the certificate was sought to be issued, the certificate itself does not state or restrict its use for any particular purpose. Therefore, merely because the affidavit refers to a specific purpose, the validity of the certificate cannot be curtailed or questioned when the certificate, on its face, contains no such limitation.

Additionally, on the point that an SEBC candidate cannot be selected in the Unreserved (UR) category, it is submitted that such contention is wholly misconceived. It is argued that a UR seat is not reserved for any category and is open to all candidates purely based on merit. Opposite Party No.2 has been selected against a UR seat on her own merit, and there exists absolutely no bar under any rule that a person applying under the SEBC category cannot be considered or selected against a UR seat. Additionally, it is submitted that there

exist a catena of Judgments by the Hon'ble Supreme Court, wherein it has been observed by the Apex Court that reserved category candidates score well above the Unreserved candidates they can't be denied equality of treatment merely because they come from the reserved category.

Accordingly, it is contended that the averments made in the writ petition are completely misconceived, do not stand on any legal footing, and as such, the writ petition is not maintainable and deserves to be dismissed.

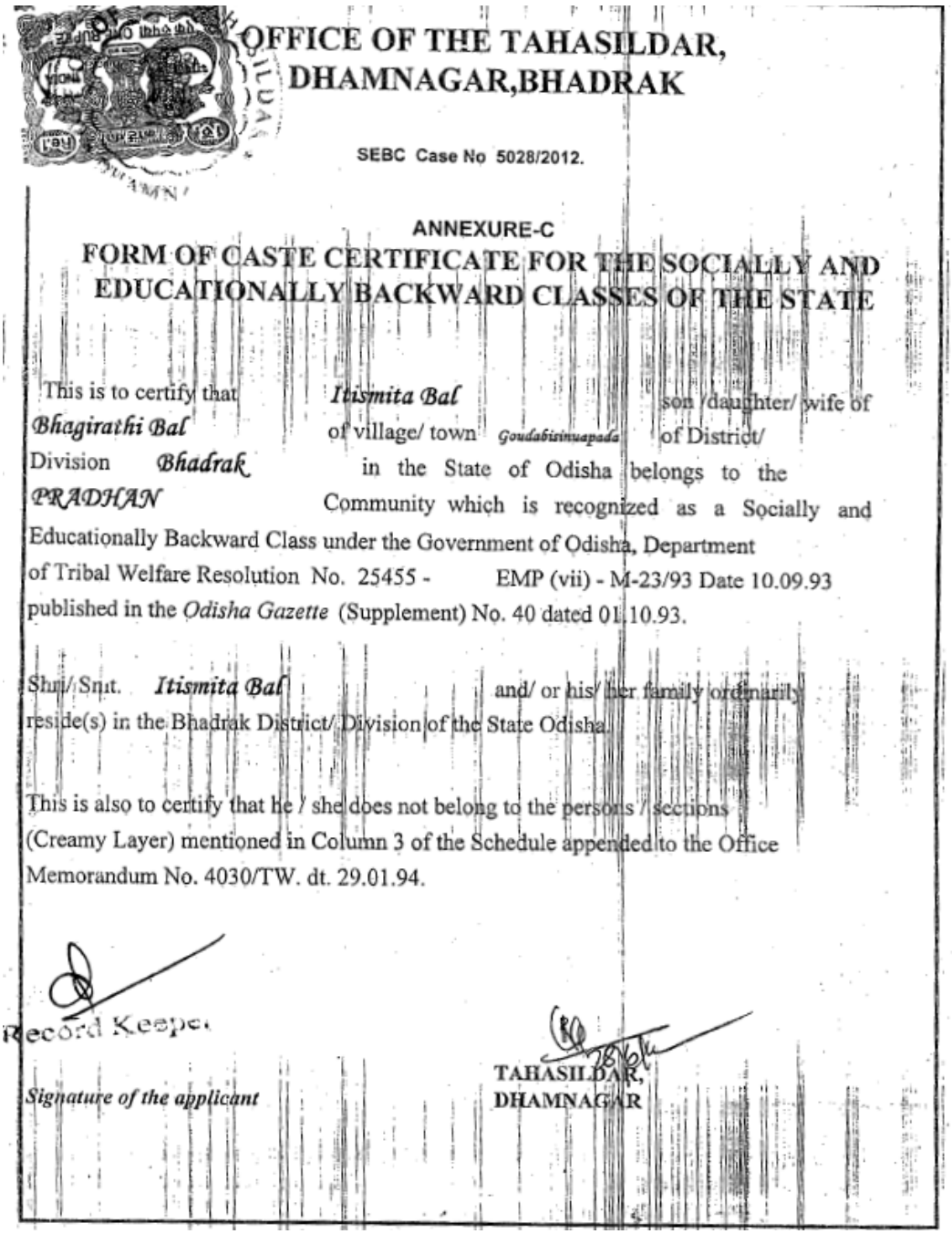
6. From the perspicacious analysis of the pleadings, documents and the rival submissions advanced by learned counsels for the parties, the following two questions emerge to be answered:

(1) Whether the SEBC Certificate obtained by the petitioner for the purpose of admission in the higher education is forbidden to be used for seeking reservation in the employment?

(2) Whether a reserved category candidate could be appointed against the Unreserved post sheerly on the basis of his/her merits ?

7. Learned counsel for the petitioner could not bring to our notice any rules, regulation or a precedential law by any Constitutional Court supporting his contention in so far as the first issue is concerned. Although he has pointed out that the SEBC Certificate is issued by the competent authority in favour of the opposite party No.2 is not perpetual or universal in nature. Rather, it was meant for a particular period and for a specific purpose. The opposite party no.2 has disclosed in the affidavit the very purpose for which she had obtained the SEBC Certificate. It is obviously forbidden for her to use for any purpose except the purpose for which she has obtained the Certificate. Once a SEBC Certificate is issued for a declared purpose, such as education, scholarship, admission or for that matter of employment, it cannot be re-purposed for any other subject not disclosed or intended at the time of issuance of the Certificate. At this juncture, taking into consideration the submission of the learned counsel for the petitioner, we felt it appropriate to refer to the tenure of the certificate and accordingly the photo-image of the certificate is reproduced for the convenience of ready reference:

HIGH COURT
ORISSA



OFFICE OF THE TAHASILDAR,
DHAMNAGAR,BHADRAK

SEBC Case No 5028/2012.

ANNEXURE-C

FORM OF CASTE CERTIFICATE FOR THE SOCIALLY AND EDUCATIONALLY BACKWARD CLASSES OF THE STATE

This is to certify that *Itismita Bal* son /daughter/ wife of *Bhagirathi Bal* of village/ town *Goudabisinuapada* of District/ Division *Bhadrak* in the State of Odisha belongs to the *PRADHAN* Community which is recognized as a Socially and Educationally Backward Class under the Government of Odisha, Department of Tribal Welfare Resolution No. 25455 - EMP (vii) - M-23/93 Date 10.09.93 published in the *Odisha Gazette* (Supplement) No. 40 dated 01.10.93.

Shri/ Smt. *Itismita Bal* and/ or his/ her family ordinarily reside(s) in the Bhadrak District/ Division of the State Odisha.

This is also to certify that he / she does not belong to the persons / sections (Creamy Layer) mentioned in Column 3 of the Schedule appended to the Office Memorandum No. 4030/TW. dt. 29.01.94.

Record Keeper.

Signature of the applicant

TAHASILDAR,
DHAMNAGAR

The certificate issued by the Competent Authority doesn't indicate the purpose for which it has been issued or the tenure,

however, bears a declaration that the certificate bearer doesn't belong to creamy layer.

Although the opposite party no.2 in the counter affidavit has stated that she has obtained the certificate to apply for the higher education, but reading of the certificate makes it clear that the same was not meant for a specific purpose. No material has been placed by the petitioner to show that the Opp. Party No. 2 has attained the creamy layer status in the meantime.

8. We are alive to the fact that the SEBC status is a conditional status and not absolute one. It depends upon the income status which periodically varies. One, who falls under the creamy layer category, loses the SEBC status. However, nothing is placed on record by the petitioner to prove the contrary. Hence, continuity of the SEBC status of the opposite party no.2 cannot be questioned only on assumptions without there being any basis of material on record. The petitioner further contended that it was the obligation on the part of the employer under law to verify the authenticity of SEBC Certificate produced by the private opposite party. Appointment given to the private opposite party without verification of the reservation

certificate is illegal and it is arbitrary exercise of power on the part of the opposite party no.1, which is violation of the Constitutional mandate of fair recruitment and renders the entire appointment vulnerable to cancellation.

9. The argument advanced by the petitioner could have been sustained, if any material would have been placed by her to establish that the private opposite party has attained creamy layer status. The Hon'ble Supreme Court in the matter of ***Ashoka Kumar Thakur vs. Union of India***, reported in ***2008 (6) SCC 1*** has already held that the creamy layer principle is meant only to ensure that the benefits of reservation flows to truly backward class of people those who are not advanced socially or economically. Candidates falling under the creamy layer category are not to be extended any reserved benefit, as economically they are well of. There is no quarrel on the established principle under law as enunciated by the Hon'ble Supreme Court. However, in the present case, there is no material brought on record to doubt the SEBC status of the private opposite party. The SEBC Certificate submitted by the opposite party No.2 for the purpose of claiming reservation benefit in the employment cannot be found fault

with. Moreover, in the present case, the opposite party no.2 has not availed the benefit of reservation as she has been appointed sheerly on merit under the UR category. Besides that the opposite party no.2 has not either availed the age relaxation or exemption of the fee as a SEBC candidate. Therefore, the grievance of the petitioner regarding her appointment under the UR category is completely misplaced. Hence, the certificate furnished by the opposite party no.2 seeking reservation as SEBC candidate lost its significance once she was appointed under UR category on merits.

10. In so far as the second issue is concerned, it is relevant to rely upon Rule-7 of the Odisha District and Subordinate Courts' Non-Judicial Staff Services (Method of Recruitment and Conditions of Service) Rules, 2008.

> *"7.* ***Manner of Selection of Candidates-(1)*** *After receipt of applications for recruitment examination, career merit lists for general and reserved categories according to the descending order of total of percentage of marks in H.S.C. Examination and + 2 examination or their equivalent examinations shall be prepared.*
>
> *(2) From each category of career merit list, candidates upto 20 times of actual vacancy in each category shall be called to appear at the written test.*

(3) Considering the marks secured in the written test, one merit list for the general candidates and separate merit list for each of the reserved categories shall be prepared and candidates up to ten times of vacancy in each category shall be called for computer science test (practical), short hand and type writing test, as the case may be, and the candidates selected in such practical selected in test shall be called for viva voce test.

(4) On the basis of marks secured in the written test, practical test as provide in sub-rule (3) and the viva voce test, a merit list of all the candidates (both general and reserved categories) shall be prepared and thereafter separate merit list for general and reserved categories shall be prepared according to the descending order of total marks.

(5) Candidates according to the descending order of total marks of each category mentioned in sub-rule (4) shall be selected for filing of the vacancy.

(6) The select list in respect of posts advertised shall remain valid for a period of one year from the date of first appointment from such list or till the date notified for next recruitment, whichever is earlier."

11. The opposite party no.1 in compliance of the above Rule, conducted the entire selection process. Ten numbers of posts for Junior Clerk-cum-Copyist were advertised to be filled up. Out of which three posts were reserved for the SC category (one woman), three posts were reserved for the ST category (one woman), three

posts were reserved for SEBC category (one woman) and one post was meant for UR category (woman). Pursuant to the advertisement, the petitioner as well as other candidates including the opposite party no.2 submitted their applications for appointment to the post of Junior Clerk-cum-Copyist. The petitioner submitted her application as an UR category candidate whereas the opposite party no.2 submitted her application as SEBC candidate. On the marks secured in the written test as well as in the viva-voce test, a combined merit list of all the candidates was prepared as per sub-rule (4) of Rule-7 of the Odisha District and Subordinate Courts' Non-Judicial Staff Services (Method of Recruitment and Conditions of Service) Rules, 2008. The opposite party no.2 secured the fourth position in the general merit list and the present Petitioner secured fifth position. Since the opposite party no.2, although belongs to SEBC category, but secured fourth position in the combined merit list, she was appointed against one post meant for UR category. Therefore, the claim of the petitioner against the post meant for UR category was obviously not made available for her because she stood below opposite party No.2 in the combined merit list. The petitioner could not have been appointed to the post of Junior Clerk-

cum-Copyist, as the opposite party no.2, who was a SEBC candidate was placed above her in the common merit list.

12. It is trite law that the candidate belongs to the reserved category who secured higher position in the merit list in the process of selection for appointment by virtue of his/her merit has to be considered for appointment against the vacancy meant for the UR category notwithstanding the fact that he has applied under the reserved category and thus resultant slot under the reserved category will be occupied by the next candidate under the said reserved category in order of merit. This proposition of law is also settled by various judgments of the Hon'ble Supreme Court including the judgment in the case of ***State of Orissa vs. Raj Kishore Nanda***, reported in ***2010 (6) SCC 777***. In a recent judgment, the Hon'ble Supreme Court in the case of ***Rajasthan High Court vs. Rajat Yadav***, reported in ***2025 INSC 1503*** has also reiterated the said principle, *inter alia*, stating as under:

> *"74. Before we part, we find it necessary to enter a caveat. A situation could arise, if the aforesaid principles were applied, of a reserved category candidate based on his/her performance outshining General/Open candidates and figuring in the General merit list, but finding the options to be limited. He/she*

may, as a consequence of being counted as a General candidate, lose out on a preferred service or a preferred post because the same is reserved for a reserved category candidate. Should such an eventuality occur, the same is bound to breed dissatisfaction, disappointment and displeasure which are not in the interests of public service. After all, fairness matters even in public employment. Where adjustment against the unreserved category would result in a more meritorious reserved category candidate being displaced in favour of a less meritorious candidate within the same category for a preferred service or a preferred post within the reserved quota, the former must be permitted to be considered against the service/post in the reserved quota. This would ensure merit being preserved both across categories and within them, and that reservation functions as a means of inclusion rather than an instrument of disadvantage. The approach adopted by us in holding so is consistent with the view expressed by this Court, encapsulated in paragraph 24.1 of Alok Kumar Pandit (supra). We may also mention here that prior to the view expressed in Alok Kumar Pandit (supra), the High Court at Calcutta in a somewhat like situation took the same view in Mukul Biswas v. State of West Bengal."

In view of the settled principle of law as discussed above, the answer to the second issue also goes in favour of the opposite party No.2

13. Taking into consideration the entire conspectus of the present case and on the basis of the settled position of law, the prayer made by the petitioner in the writ petition deserves no merit. Hence, the writ fails.

14. Accordingly, the writ petition stands dismissed.

(Sibo Sankar Mishra)
Judge

M.R. Pathak, J. I agree.

(Manash Ranjan Pathak)
Judge

The High Court of Orissa, Cuttack.
Dated the 25th of February, 2026/Subhasis Mohanty

Signature Not Verified
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Signed by: SUBHASIS MOHANTY
Designation: Personal Assistant
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 25-Feb-2026 18:29:32