

Court No. - 42

Case :- WRIT - A No. - 8882 of 2023

Petitioner :- Pankhudi Agarwal

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Prabhav Srivastava

Counsel for Respondent :- C.S.C.,M.N. Singh

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Rajendra Kumar-IV,J.

1. Heard Sri Prabhav Srivastava, learned counsel for the petitioner; Sri M.N. Singh, learned counsel for the Commission and learned Standing Counsel for the State-respondent.

2. Submission is that the petitioner while filling up the form for preliminary examination by mistake applied as 'Dependent of Freedom Fighter' (for short "DFF") though she belongs to Economically Weaker Section (for short "EWS") category. Upon qualifying the preliminary examination, she realised her mistake and tried to fill up the form as a EWS category candidate. As far as the DFF, she sought correction in the application, which has been rejected.

3. Relying on Note 6 of Clause 7 pertaining to reservation under Advertisement No.A-5/E-1/2022, dated 10.12.2022, the Commission may not have cancelled the petitioner's candidature as she did not make any false or misleading claim as may invite action under sub Clause 18 of Clause 11 of the above advertisement.

4. Prima-facie the matter requires serious consideration.

5. Upon the matter being heard in the pre-lunch session, Sri M.N. Singh was required to produce the result of the preliminary examination concerning the present petitioner, in sealed cover. After lunch that result has been produced. The petitioner has obtained more than the cut off marks under EWS category.

6. Since the examination is to be held from tomorrow onwards, as an interim measure, it is provided that the Commission would allow the petitioner to appear in the examination provisionally subject to the final out come of the present writ petition. However final result of the petitioner may not be declared except with leave of the Court.

7. Since the issue involved is purely legal, learned counsel for the Commission prays for and is granted two weeks time to file counter affidavit. Petitioner may file rejoinder affidavit within one week thereafter. Thus we expect, the pleadings would be completed in the first week of July 2023.

8. Put up on 10.07.2023, in top ten cases.

9. The result has been returned to Sri M.N. Singh in sealed cover.

10. Copy of the order be provided to learned counsel for the petitioner today itself.

Order Date :- 22.5.2023

I.A.Siddiqui

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(Rajendra Kumar-IV,J.) (Saumitra Dayal Singh,J.)