

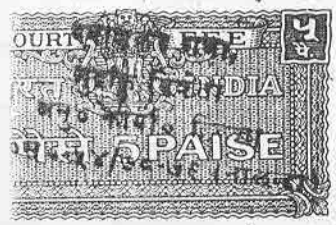
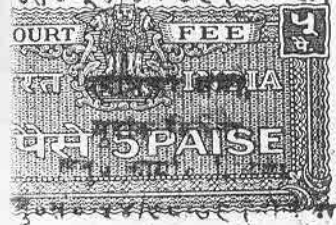
Handwritten notes at the top left, including a signature and the date 20/8/04.

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Serial No. of Order	Date of Order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order.
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2, 5.8.2004.

Handwritten numbers: 855/757 and 30/9/04.



In the High Court of Judicature at Patna.  
C.W.J.C. No. 8707 of 1999.

Md. Mokhtar.....vs.....The State of Bihar & ors.

Heard learned counsel for the parties.

The petitioner has come to this Court with the allegations that he had submitted a certificate issued by the Sub-Divisional Officer that he belonged to the Most Backward Class Category but the respondents treated him under General Category though a certificate issued by the competent Officer/Sub-Divisional Officer was annexed with his form.

Learned counsel for the <sup>Commission</sup> ~~State~~ submits that Circular bearing no. 1031/1994 dated 9.2.1994 did provide that the Sub-Divisional Officer may issue such a certificate but the said circular was modified by Government Circular No. 32 dated 6.5.1995 wherein it was clearly mentioned that in case of appointment to the post in the Government services the competent Officer would be District Magistrate and other authorities. According to him, as the petitioner did not submit the certificate issued by the District Magistrate or the competent Officer he was rightly taken in the General Category. He places his strong reliance upon a Division Bench judgment of this Court in the matter of Bihar Public Service Commission & ors. v. State of Bihar & ors. (LPA No. 893/2003), decided on 13.10.2003.

Surprisingly enough the State Govt. which was a party to that LPA did not <sup>in the said LPA</sup> say anything that the Circular issued in the year 1995 was superseded

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subsequently and with modification the authority to issue certificates was conferred upon other Officers. With the counter affidavit Circular No. 45 dated 25.3.1996 has been annexed as Annexure-1, to contend that on the strength of a certificate issued by the Sub-Divisional Officer, the District Magistrate or any Additional Collector authorised by the District Magistrate may issue a case certificate. According to them Circular No. 45 explains and modifies the earlier Circular No. 32.

Even if Circular No. 45 is taken into consideration then it would not add mileage to the present petition. Undisputedly the petitioner had annexed a certificate issued by the Sub-Divisional Officer and not a certificate issued by the District Magistrate or any authorised Officer on the strength of the certificate issued by the Sub-Divisional Officer. absolutely  
The respondents were/justified in treating the petitioner under General Category.

The petition is dismissed.

Sd/- R. S. Gang, J.

RECEIVED TO BE TYPED COPY  
 Ramesh Kumar SR  
 For Joint Registrar  
 Patna High Court  
 16-8-2004  
 Authorised U/S 76 Act 1 of 1950

Sushil Kumar  
 16-8-2004  
 2004-7290