



that he filled-up the online form mentioning his category as BC-II, on the basis of caste certificate issued by the Circle Officer, Tandwa. Thereafter, the petitioner appeared in the recruitment process and he was declared successful and his date for counseling was fixed for 08.01.2019, in which he appeared and submitted all his testimonials including the caste certificate issued by the competent authority i.e. SDO, Simeria, Chatra, in which it was mentioned that petitioner belongs to BC-II category. However, as per the Govt. Resolution dated 27.12.2016, the caste of the petitioner was changed to BC-I category. When objection was raised, the petitioner immediately submitted another caste certificate issued by the SDO, Simeria, Chatra along with application dated 08.01.2019. However, when the final result published on 18.04.2019, the name of the petitioner did not appear in the list of selected candidate.

4. It is the case of the petitioner that though he secured 198 marks and the last selected candidate under BC-II category has obtained 198 marks and the last selected candidate of BC-I category has obtained 192 marks still his candidature has not been considered. The petitioner filed representation dated 30.05.19 but the same went into vain.

Hence, he has been constrained to knock the door of this Court.

5. Mr. Amritansh Vats, learned counsel appearing for the petitioner assiduously urges that the action of the respondent is arbitrary and illegal in view of the fact that the petitioner has mentioned his caste as 'Barai (BC-II)' in the online application form on the basis of caste certificate issued by the Circle Officer, Tandwa, Chatra. Learned counsel further argues that the action of the respondent is also illegal in view of the fact that the competent authority, who is empowered to issue caste certificate was not aware about the Resolution No. 11082 dated 27.12.2016 issued by the Department of Personnel, Administrative Reforms and Rajbhasa, Govt. of Jharkhand and issued the caste certificate of the petitioner under BC-II category which was subsequently modified and issued by SDO, Simaria, Chatra as BC-I category.
6. On the other hand, learned counsel appearing for the respondents submits that since the petitioner has not submitted the valid caste certificate,

hence, his candidature has been rejected. Learned counsel further argues that the said issue has already been decided by this Court in the case of **Raj Kumar Mahto Vs. State of Jharkhand & Ors.**, reported in (2020) 1 JBCJ 465 (HC), wherein this Court has held that *“since the petitioners failed to fulfill the requisite conditions stipulated in the advertisement and could not submit valid caste certificate issued by competent authority within stipulated period, their candidatures under respective reserved categories have rightly been rejected”*. Learned counsel further submits that the Division Bench of this Court in **L.P.A No 610/2017 and L.P.A No.618/2017 (Jharkhand Staff Selection Commission –Vs- State of Jharkhand and Ors.)** after considering several judgments of this Hon’ble Court and other Hon’ble High Courts has been pleased to held that *“where there is no cut-off date fixed for submission of caste certificate in that case Ram Kumar Gijroya case is applicable and where there is specific date i.e cut –off date mentioned in the Advertisement for submission of caste certificate, the ratio of Ram Kumar Gijroya case will not be applicable”*.

7. Admittedly, in the present case, Advertisement No. 21/2016 was issued by Jharkhand Staff Selection Commission and the last date of submission of online application was fixed on 5.2.2017 which was further extended upto 25.4.2017. As per clause 4 (Ka) (II) and Clause 4 (Ka) (V) (i) & (ii) of the advertisement, the petitioner had to submit the required caste certificate by 25.04.2017, but the petitioner failed to submit caste certificate as per terms and conditions of advertisement. Petitioner was also issued show-cause notice dated 15.01.2019, whereby, the petitioner was asked to submit his valid caste certificate latest by 22.01.2019 but he failed to submit the same. Hence, his candidature was considered under unreserved category and since he has obtained less marks than the last selected candidate under Unreserved category, rightly his candidature has been rejected and not considered for appointment.
8. The Hon’ble Apex Court in the case of **State of Tamil Nadu Vs. G. Hemlata & Anr.**, reported in (2020) 19 SCC 430, has observed that, *“instruction issued by the Commission are mandatory, having force of law and they are strictly complied with. Strict adherence to the terms and*

*conditions of the Instruction is of paramount importance. The High Court in exercise of powers under Article 226 of the Constitution cannot modify/relax the Instructions issued by the Commission".* The instructions enshrined in the advertisement are binding on the candidates appearing in the recruitment process. No discretion in this regard can be shown by this Court sitting under Article 226 of the Constitution.

Further, the Hon'ble Apex Court in case of ***Umesh Chandra Shukla v. Union of India***, reported in (1985) 3 SCC 721 has held as under:

*13. .... Exercise of such power of moderation is likely to create a feeling of distrust in the process of selection to public appointments which is intended to be fair and impartial. It may also result in the violation of the principle of equality and may lead to arbitrariness. The cases pointed out by the High Court are no doubt hard cases, but hard cases cannot be allowed to make bad law. In the circumstances, we lean in favour of a strict construction of the Rules and hold that the High Court has no such power under the Rules. ...."*

The terms and the conditions of the Advertisement can neither be relaxed nor be altered. The said legal proposition is no more res integra and find strength from the celebrated judgment of Hon'ble Apex Court in case of ***Bedanga Talukdar v. Saifudaullah Khan***, reported in (2011) 12 SCC 85, the relevant para of which reads as under:

*"29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be*

*necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.*

.....

.....

*32. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice. In such circumstances, the High Court could not have issued the impugned direction to consider the claim of Respondent 1 on the basis of identity card submitted after the selection process was over, with the publication of the select list.”*

The Hon’ble Apex Court in case of **High Court of Hyderabad v. P. Murali Mohana Reddy**, reported in (2019) 3 SCC 672 has reiterated the same view.

The same view was also reiterated by this Court in case of **Raj Kumar Mahto Vs. State of Jharkhand & Ors.**, reported in 2020 (1) JBCJ 465 (HC), the relevant paragraphs of which reads as under:

*“The Hon’ble Division Bench of this Court in L.P.A 610/2017 and L.P.A 618/2017 has been pleased to hold that where there is no cut-off date fixed for submission of caste certificate in that case Ram Kumar Gijroya case is applicable and where there is specific date i.e. cut –off date mentioned in the Advertisement for submission of caste certificate, the ratio of Ram Kumar Gijroya case will not be applicable. It is not out of place to mention here that judgment and Order dated 12.10.2018 passed in L.P.A No.618/2017 and L.P.A 610 of 2017 were challenged by the Jharkhand Staff Selection Commission before the Hon’ble Supreme Court and the Hon’ble Supreme Court has been pleased to dismiss the same with the observation “however, the question of Law is kept open”. After passing the order by the Hon’ble Supreme Court in SLP No. 32332/2018, the Hon’ble Division Bench of this*

*Hon'ble Court in W.P(S) No. 1921/2018 Rohan Thakur –Vs- State and Ors. again considered the ratio laid down by the Hon'ble Supreme Court in Ram Kumar Gijroya case as well as Order passed by this Hon'ble Court in L.P.A No.610 /2017 i.e. Anil Tanti case and Hon'ble Division after hearing has been pleased to dismiss the aforesaid case with an observation vide Para- 3, 4, 5,6 and 7 that in view of the specific stipulation made in the Advertisement about obtaining the caste certificate before last date of submission of Application form, the ratio laid down in Ram Kumar Gijroya case and Anil Tanti case are not applicable.”*

9. This Court dealing with a similar issue in case of **Naodeepika Ekka Vs. the State of Jharkhand & Ors. [W.P.(S). No. 869 of 2023]** considering the various judgments of Hon'ble Apex Court vide its order dated **22.08.2023**, dismissed the said writ petition. The relevant paras of the said judgment reads as under:

*35. The issue in the instant writ petition is that if any specific stipulation in the Advertisement is not followed, what would be the consequences of the same. The same has been answered by the Hon'ble Apex Court as well as this Court in plethora of their judgments. The Hon'ble Apex Court in case of **Ramana Dayaram Shetty v. International Airport Authority of India**, reported in (1979) 3 SCC 489 and also in the case of **Air India Ltd. v. Cochin International Airport Ltd.**, reported in (2000) 2 SCC 617, held that selection process has to be conducted strictly in accordance with the selection procedure. All appointments to public offices have to be made in conformity with Article 14 of the Constitution of India. Any departure from the rules, specific terms and conditions stipulated in the Advertisement as well as guidelines will amount to arbitrariness and illegality committed by the Commission itself and as such, will be violative of Article 14 of the Constitution of India. There must be no arbitrariness resulting from any undue favour being shown to any candidate. Relaxation of any condition of Advertisement without due publication would be contrary to mandate equality as contained in Articles 14 and 16 of the Constitution of India.*

*36. In the recent judgment delivered by the Hon'ble Apex Court in case of **Sakshi Arha Vs. Rajasthan High Court & Ors.**, reported in 2023 SCC Online 662, the Hon'ble Court has held as under:*

*76. It is also pertinent to note that if the appellants were allowed to produce the certificates issued after the last date fixed for*

*the submission of applications mentioned in the advertisement i.e. 31.08.2021, the other candidates similarly situated as the appellants might raise a grievance for not giving them such opportunity. The appellants who are the defaulters could not be given preferential treatment by accepting the certificates produced by them as valid, though the same were obtained by them after the last date for the submission of applications fixed in the advertisement. The said certificates were also not supported by the requisite affidavits as per the Government circulars dated 09.09.2015 and 08.08.2019.”*

- 10.** In view of the submissions made by the learned counsel for the parties coupled with the ratio laid down by this Court as well as by the Division Bench of this Court which has been affirmed up-to the Hon'ble Apex Court, nothing remains to be decided in the present writ petition.
- 11.** This writ petition, is accordingly, dismissed.
- 12.** Pending I.As., if any, stand closed.

**(Dr. S.N. Pathak, J.)**