**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH**

**C.W.P.NO.\_\_\_\_\_\_\_\_\_ OF 2018**

Krishan and others ..Petitioners

Versus

State of Haryana and others ...Respondents

**I N D E X**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SR.**  **NO.** | **PARTICULARS** | **DATE** | **PAGE** | **COURT**  **FEE** |
|  | List of Dates & Events | 05.10.2018 | 01-05 |  |
|  | Civil Writ Petition | 05.10.2018 | 06-21 | 650:00 |
|  | Affidavit in Support | 05.10.2018 | 22-23 |  |
|  | Annexure P-1: Advertisement | 19.07.2015 | 24-32 |  |
|  | Annexure P-2: Copy of Result | 03.10.2016 | 33-113 |  |
|  | Annexure P-3: Copy of Result | 22.05.2017 | 114-168 |  |
|  | Annexure P4-: Copy of Result | 23.06.2017 | 169-186 |  |
|  | Annexure P-5: Notification | 24.01.2013 | 187 | 1:00 |
|  | Annexure P-6: Judgment | 12.04.2016 | 188-191 | 3:00 |
|  | Annexure P-7: Instruction | 01.04.2016 | 192 | 1:00 |
|  | Annexure P-8: Instruction | 27.09.2015 | 193-194 | 2:00 |
|  | Annexure P-9: Judgment | 06.08.2012 | 195-205 | 3:00 |
|  | Annexure P-10: Representation | 05.07.2018 | 206-208 | 2:00 |
|  | Power of Attorney | 05.10.2018 | 209 | 3:00 |

Note:-

1. The main law points involved in this petition are mentioned in Para No. 19 at page No & .
2. Statue/Rules:
3. Article 14 and 16 of the Constitution of India.
4. Whether caveat petition has been filed in this Case:- No.
5. Such or Similar case if any:  **NO**

CHANDIGARH (VIKRAM SHEORAN) (MAZLISH KHAN)

P-1297/2004 P-

(AZAD KHAN)

05.10.2018 ADVOCATES

COUNSEL FOR THE PETITIONERS

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH**

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TOTAL COURT FEE AFFIXED

Rs.

CHANDIGARH MAZLISH KHAN & AZAD KHAN

05.10.2018 ADVOCATES

COUNSEL FOR THE PETITIONERS

**LIST OF DATES AND EVENTS**

|  |  |
| --- | --- |
| **-----** | Haryana Staff Selection Commission issued an advertisement No. 8/2015 on 19.07.2015 vide which 5000 posts of Male Constable (General Duty) were re-advertised. In the said Advertisement, the respondent-commission has classified the posts as (General Duty) only 1650 have been reserved for General Category candidates Whereas 1000 (for scheduled caste), 800 (for BCA), 550 (for BCB), 500 (for SBC) and 500 (for EBPG). |
| **23.06.2017** | Result has been declared by Haryana Staff Selection Commission i.e. respondent Nos. 2 and 3 on 23.6.2017 |
| **24.01.2013** | Governor of Haryana had issued notification on 24.01.2013 whereby the worthy Governor was pleased to declare 1. Bishnoi, (2) Jat, (3) Jat Sikh, (4) Ror, (5) Tyagi, as Special Backward Classes and provided 10% reservation in Jobs under Government/Government Undertaking and Local bodies as well as Educational Institutions in exclusion to the already notified 27% reservation provided to the Backward Classes. |
| **27.9.2013** | The Haryana Government by issuance of notification dated 27.09.2013 has provided 10% vertical reservation for Economically Backward Persons in General Caste Category herein after referred as EBPGC category of the State in jobs under Government/Government Undertakings and Local Bodies as well as in Educational Institutes. |
| **----** | Since various cases were pending before the Hon’ble Court concerning to Special Backward Classes and thus, in this way in one case bearing CWP No. 9132 of 2015 titled as Ved Parkash and another versus State of Haryana and others, the Hon’ble High Court has stayed the operation and implementation of notification dated 24.01.2013 issued by Governor of Haryana whereby Bishnoi, Jat, Jat Sikh, Ror, and Tyagi categories have been declared as Special Backward Classes vide order dated 27.07.2015 and the abovesaid petition was allowed and the notification in which 10% was guaranteed to SBC was quashed. |
| **---** | At the time of declaring the result, 500 posts of SBC and 500 posts of EBPGC class categories have not been filled up by the Haryana Staff Selection Commission and the SBC/BC (C) category candidates except those who have availed the benefit of age relaxation, have been treated as General Category candidates. |
| **27.09.2015** | The Haryana government issued a instruction on 27.09.2015 in which stated that ‘**now the matter regarding admission in educational institutions has been re-considered and it has been decided by the state government that for the current academic session 10 % seats reserved for SBC shall be filled up from general category students**’. Similar in the present case 500 posts were reserved for SBC i.e. Special Backward Class in the advertisement. But, 500 posts of SBC remained unfilled. Although, these posts should be treated as General Category posts because the said posts were classified/taken out from the General category. |
|  | Government of Haryana have also issued a notification dated 15.7.2014 in which in case of direct recruitment in class III and Class IV posts it has been mentioned as under:- Scheduled caste 20%, Backward Class (A) 16%, backward Classes (B) 10%, Special Backward Classes 10% and Economically Backward Persons in General Caste Category 10% and thus, totaling 67% posts have been reserved and 33% posts have been classified as unreserved. |
| **---** | Though 500 posts were reserved for SBC i.e. Special Backward Class in the advertisement. But in view of the stay granted by the Hon’ble Court these posts have not been filled up and the candidates who had applied in the category of SBC have been treated in the General Category. That the posts which have been reserved or them should be filled up from the General Category candidates |
| **16.08.2012** | It is settled law that once the candidates from a particular Category are not available then as per the instructions of the government the posts can be filled from the candidates belonging to the general Category. The judgment of the Hon’ble High Court to this effect in CWP No 13384 of 2011 titled as “***Garima Jindal Vs HVPNL &Anr.***” |
|  | That the petitioners made representations to the rerspondents for redress of their grievances but the same have not been redressed till date, hence the present petition. Copy of representation filed by the petitioners is attached along with as **Annexure P- 8** |
| **05.10.2018** | HENCE THE PRESENT WRIT PETITION. |

CHANDIGARH MAZLISH KHAN & AZAD KHAN

05.10.2018 ADVOCATES

COUNSEL FOR THE PETITIONERS

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH**

**C.W.P.NO.\_\_\_\_\_\_\_\_\_ OF 2018**

***MEMO OF PARTIES***

1. Krishan son of Gayalal age 26 years R/o Bahin Near water Buster, tehsil Hathin, District Palwal, Haryana, Roll No. 1001167252.
2. Gurmeet Singh son of Dalel Singh age 25 years, R/o Songal, Tehsil Hathin, District Palwal, Haryana, 1001126205.
3. Naveen Kumar son of age 24 years R/o Mandhi Pranu, Tehsil Charkhi Dadri, District Bhiwani, Haryana, Roll No. 1001140236.
4. Rohit Rosha son of Meghraj Singh age 24 Years R/o GalimPura Tehsil and District Bulandshar, Utter Pradesh, Roll No. 1001208694.
5. Shakti Singh Atri son of Yogender Singh age 25 years R/o Bharatgarh, Tehsil and District Palwal, Haryana, Roll No. 1001198665.
6. Yogesh son of Sukhvir age 24 years R/o Lalpur, Tehsil and District Palwal, Haryana, Roll No. 1001385442.
7. Ashish son of Dayaram age 24 years R/o PipliKhera, Tehsil Gannaur, Distrist Sonipat, Haryana, Roll No. 1001071969.
8. Neeraj Kumar son of Dayanand age 26 years R/o KarsaDod, tehsil Nilokheri District Karnal, Haryana, Roll No. 1001188817.
9. Pradeep Kumar son of Surender Singh age 22 years R/o Khema Kheri, Tehsil and District Jind, Haryana, Roll No. 100117300.
10. Amit son of Jagdeep age 24 years, R/o H.No. 231/1 Block No. 02 Main gali, Vpo Kothkala, Tehsil Narnaund, District Hissar, Haryana, Roll No. 1001161764.
11. Rakseh Sheokand son of Raj kumar Sheokand age 24 years, R/o Tara Chand Badan Singh Shop No. 10 Uchana mandi, Tehsil Narwana, District Jind, Haryana, Roll No.1001370660.
12. Rambir son of Jagdish age 27 years, R/o Bhonsla, Tehsil Narwana, District Jind, Haryana, Roll No. 1001309947.
13. Paramjit son of Ramkala age 23 years R/o Kothkala, Tehsil Narnaund District Hissar, Haryana, 1001328330

...Petitioners

VERSUS

1. State of Haryana, through its financial secretary, civil secretariat, sector-17 Chandigarh.
2. Haryana Staff Selection Commission, through its Chairman, Bays No. 67-70, Sector-2, Panchkula, Haryana.

........Respondents

CHANDIGARH (VIKRAM SHEORAN) (MAZLISH KHAN)

(AZAD KHAN)

05.10.2018 ADVOCATES

COUNSEL FOR THE PETITIONERS

Civil Writ Petition Under Articles 226/227 Of The Constitution Of India For Issuance Of Appropriate Writ, Order Or Direction Especially A Writ In The Nature Of mandamus directing the respondents to fill up the 500 posts of constables in Haryana police reserved in favour of special backward class(SBC) from the general category candidates as these posts were taken out from the quota of general category and should be filled from the candidates of general category only as the same remained unfilled.

**AND**

Further directing the respondents to fill up the 500 posts was reserved for SBC i.e. Special backward class in the advertisement. But in view of the stay granted by the hon’ble court these posts have not been filled up and the candidates who had applied in the category of SBC have been treated in the general category. But, 500 posts of SBC remained unfilled. Although, these posts should be treated as general category posts because the said posts were classified/taken out from the general category.

AND/OR

Any Other Order Or Relief Which This Hon’ble Court May Deem Fit And Proper In The Peculiar Facts And Circumstances Of The Present Case.

***RESPECTFULLY SHOWETH***:-

1. That, the petitioners are residents of Haryana and citizen of India and thus, they are entitled to invoke the extra ordinary jurisdiction of this Hon’ble Court by way of filing of present writ petition.
2. That Haryana Staff Selection Commission issued an advertisement No. 8/2015 on 19.07.2015 vide which 5000 posts of Male Constable (General Duty) were re-advertised. The break-up of the posts which was mentioned in the advertisement is as under:-

|  |  |  |
| --- | --- | --- |
| Sr. No. | Category | Number of posts |
|  | General | 1650 |
|  | SC | 1000 |
|  | BCA | 800 |
|  | BCB | 550 |
|  | SBC | 500 |
|  | EBPG | 500 |

True copy of the advertisement issued by the Haryana Staff Selection Commission is annexed herewith as ***Annexure P-1***.

1. That the following stages were mentioned in the advertisement with regard to the selection process.

A. Physical Screening Test (PST)

B. Knowledge Test (KT)

C. Physical Measurement Test (PMT).

D. Interview-cum-Personality Test (IPT).

1. That the petitioners being eligible and fulfilling the requisite criteria have applied under General category in pursuance to the advertisement and they were issued the roll numbers mentioned in memo of parties.
2. That result has been declared by Haryana Staff Selection Commission i.e. respondent Nos. 2 on 03.10.2016 and 22.5.2017 and the cut off for the various category is as under:-

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Category | Posts | Cut Off |
|  | General | 1650 | 65.50 |
|  | SC | 1000 | 54.60 |
|  | BCA | 800 | 58.20 |
|  | BCB | 550 | 61.20 |
|  | EBPGC | 500 | 48.80 |
|  | TOTAL | 4500 |  |

Copy of result declared by the Haryana Staff Selection Commission on 03.10.2016 and 22.5.2017 and final result is on 23.06.2017 is being annexed herewith as ***Annexure P-2*** **and P-3 and P-4**

1. That the petitioners submit that Governor of Haryana had issued notification on 24.01.2013 whereby the worthy Governor was pleased to declare 1. Bishnoi, (2) Jat, (3) Jat Sikh, (4) Ror, (5) Tyagi, as Special Backward Classes and provided 10% reservation in Jobs under Government/Government Undertaking and Local bodies as well as Educational Institutions in exclusion to the already notified 27% reservation provided to the Backward Classes. Copy of the notification dated 24.01.2013 is annexed herewith as ***Annexure P-5***.
2. That the petitioners submit that since various cases was filed before the Hon’ble Court concerning to Special Backward Classes and thus, in this way in one case bearing CWP No. 9132 of 2015 titled as Ved Parkash and another versus State of Haryana and others, the Hon’ble High Court has stayed the operation and implementation of notification dated 24.01.2013 (Annexure P-5) issued by Governor of Haryana whereby Bishnoi, Jat, Jat Sikh, Ror, and Tyagi categories have been declared as Special Backward Classes. In the above said writ petition government has been filed CM No. 4160 of 2016 in which stated that ‘**the notification dated 24.1.2013 whereby five cast namely Jat, Jat-sikh, Ror, Bishnoi and Tayagi were declared a SBC and 10 % reservations in jobs provided in government/govt. undertaking and local bodies as well as educational institutions has been withdrawn with immediate effect**. Copy of the Judgment dated 12.04.2016 is attached herewith as **Annexure P-6.**
3. That the state government vide instruction dated 1.04.2016 withdraw the notification dated 24.1.2013 whereby five cast namely Jat, Jat-sikh, Ror, Bishnoi and Tayagi were declared a SBC and 10 % reservations in jobs provided in government/govt. undertaking and local bodies as well as educational institutions has been withdrawn with immediate effect. Copy of the Instruction dated 01.04.2016 is attached herewith as **Annexure P-7.**
4. That it has also been mentioned in the result that the SC/BCA/BCB/EBPGC category candidates who have not availed the benefit of age relaxation or relaxation in height chest etc and have marks equal to or more than the cut off for the General Category candidates have been treated as General Category candidates.
5. That the following criteria have been disclosed by the Haryana Staff Selection Commission in the result declared on 23.06.2017.

|  |  |  |
| --- | --- | --- |
| Sr. No. | Stage | Marks |
|  | Physical Screening Test (PST) | 15 |
|  | Knowledge Test (KT) | 60 |
|  | Physical Measurement Test (PMT) | 15 |
|  | Interview-cum-Personality Test (IPT) | 10 |
|  | TOTAL | 100 |

1. That though 500 posts were reserved for SBC i.e. Special Backward Class in the advertisement. But in view of the stay granted by the Hon’ble Court these posts have not been filled up and the candidates who had applied in the category of SBC have been treated in the General Category. But, 500 posts of SBC remained unfilled. Although, these posts should be treated as General Category posts because the said posts were classified/taken out from the General category. Therefore the petitioners are praying that these 500 posts should also be filled up from the General Category candidates in the order of merit as these posts were taken out from the General Category only.
2. That the Haryana government issued a instruction on 27.09.2015 in which stated that ‘**now the matter regarding admission in educational institutions has been re-considered and it has been decided by the state government that for the current academic session 10 % seats reserved for SBC shall be filled up from general category students**’. Similar in the present case 500 posts were reserved for SBC i.e. Special Backward Class in the advertisement. But, 500 posts of SBC remained unfilled. Although, these posts should be treated as General Category posts because the said posts were classified/taken out from the General category. Copy of the instruction dated 27.09.2015 is attached herewith as **Annexure P-8.**
3. That it is settled law that once the candidates from a particular Category are not available then as per the instructions of the government the posts can be filled from the candidates belonging to the general Category. The judgment of the Hon’ble High Court to this effect in CWP No 13384 of 2011 titled as “***Garima Jindal Vs HVPNL &Anr.***” dated 06.08.2012 is being annexed herewith as ***Annexure P-9*** . Even LPA No 1775 of 2012 was filed against this judgment which was dismissed by the Hon’ble Division Bench.
4. That Article 14 speaks of equality before law. Article 16 speaks of equality of opportunity in matters of public employment. Thus after perusal of the facts of the case it is abundantly clear that the official respondents have violated Article 14 and 16 of the Constitution of India.
5. That the petitioners made representations to respondents for redress of their grievances but the same have not been redressed till date, hence the present petition. Copy of representation filed by the petitioners is attached along with as **Annexure P- 10.**
6. Thatdiscrimination is not legally acceptable and the present is such which need to and can be redressed by granting the writ as sought for by the petitioners in this petition. It cannot be said that the decision of the Government fulfills the basic principle with regard to the concept of valid classification which would justify valid discrimination as has been laid down by the Hon’ble Supreme Court in the case of State of Kerala Versus N.M. Thomas (1976) 2 SCC 310. That in the present case the respondents one side government matter regarding admission in educational institutions has been re-considered and it has been decided by the state government that for the current academic session 10 % seats reserved for SBC shall be filled up from general category students and another side 500 posts were reserved for SBC i.e. Special Backward Class in the advertisement. But, 500 posts of SBC remained unfilled. Although, these posts should be treated as General Category posts because the said posts were classified/taken out from the General category. Thus the action of the respondents is highly discriminatory and against the law.
7. That the action of the respondent-commission in not treating the posts of Special Backward Classes (SBC) as General category posts and not filling up the said posts from the General Category candidates is illegal, unjust, improper, vias, unconstitutional and depicts non application of mind and this Hon’ble Court may kindly issue directions to respondents to fill the 500 SBC posts which remained unfilled from the General Category Candidates.
8. That since, the result has been declared by the Haryana Staff Selection Commission on 23.6.2017 for 4500 posts out of 5000 posts and only 500 posts of SBC classes remained unfilled, which directly put to loss the general category candidates because the said posts have been classified/taken out from the General Category candidates and should be filled up from the general Category, but the respondent-Commission did not proceed in this regard and the general category candidates put to loss by not treating the unfilled 500 SBC posts in the quota General Category.
9. That the following law points are involved in the present writ petition for king consideration of this Hon’ble court;-
   * 1. Whether the action of respondent-Commission is arbitrary and unconstitutional?
     2. Whether the action of the respondent-commission is illegal, unjust, improper and depicts no application of mind?
     3. Whether the petitioners are entitled to relief claimed for?
     4. Whether the 500 posts of SBC should be filled up from the General category candidates?
     5. Whether the notification dated 23.6.2017 wherein it provides that no waiting list would be prepared, is liable to be set aside?
     6. Whether the waiting list is required to be prepared for filling up the remained 500 posts which remained unfilled?
10. That, the petitioners have not filed any other writ petition earlier either in this Hon’ble Court or in the Hon’ble Supreme Court of India for the same cause of action under Articles 226/227 of the Constitution of India.
11. That, the petitioners are left with no alternative remedy, appeal or revision except to approach this Hon’ble Court under Article 226/227 of the Constitution of India by filing the present Civil Writ Petition.

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to issue:-

1. a writ in the nature of mandamus directing the respondents to fill up the 500 posts of constables in Haryana police reserved in favour of special backward class (SBC) from the general category candidates as these posts were taken out from the quota of general category and should be filled from the candidates of general category only as the same remained unfilled.
2. Further directing the respondents to fill up the 500 posts was reserved for SBC i.e. Special backward class in the advertisement. But in view of the stay granted by the hon’ble court these posts have not been filled up and the candidates who had applied in the category of SBC have been treated in the general category. But, 500 posts of SBC remained unfilled. Although, these posts should be treated as general category posts because the said posts were classified/taken out from the general category.
3. Any other order or relief which this Hon’ble Court may deem fit and proper in the peculiar facts and circumstances of the present case.
4. advance notices to the respondents may kindly be dispensed with;
5. petitioners may kindly be exempted from filing the certified copies of Annexures and be permitted to place on record true translated/photo/typed copies thereof;
6. cost of the petition may be awarded in favour of the petitioners;

(1)KRISHAN (2)GURMEET SINGH (3)NAVEEN KUMAR

(4)ROHIT ROSHA (5)SHAKTI SINGH ATRI (6)YOGESH

(7)ASHISH (8)NEERAJ KUMAR (9)PRADEEP KUMAR

10)AMIT(11)RAKSEH SHEOKAND (12)RAMBIR(13)PARAMJIT

CHANDIGARH

DATED: 05.10.2018 PETITIONER

THROUGH COUNSEL:-

(MAZLISH KHAN)

ADVOCATE

COUNSEL FOR THE PETITIONERS

**Verification:**

Verified that the contents of para 1 to 18 and paras 20 & 21 of this writ petition are correct to my knowledge and that of para No. 19 are believed to be correct being based on legal advise given by the counsel. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH (KRISHAN)

On behalf of all petitioners

DATED: 05.10.2018 PETITIONER

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH**

**C.W.P.NO.\_\_\_\_\_\_\_\_\_ OF 2018**

Krishan and others ..Petitioners

Versus

State of Haryana and others ...Respondents

Affidavit of Krishan son of Gayalal age 26 years R/o Bahin Near water Buster, Tehsil Hathin, District Palwal, Haryana, Roll No. 1001167252.

I, the above named deponent do hereby solemnly affirm and declare as under:-

1. That the deponent is filing the accompanying Civil Writ Petition in this Hon’ble Court, which is likely to succeed on the grounds taken therein. The grounds of the writ petition may kindly be read as part and parcel of the present affidavit.
2. That the contents of Paras No.1 to 18 and 20 & 21 of the above writ petition are true and correct to my knowledge and that of para No. 19 are believed to be true and correct as per the advice derived from the counsel. No part of it is false and nothing has been concealed therein.
3. That the deponent is well aware about the facts of this case and have gone through the contents of the petition which may be treated as part and parcel of this affidavit.
4. That the petitioner has not filed any such or similar petition in this Hon’ble Court or Hon’ble Supreme Court of India

PLACE: CHANDIGARH

DATED: 05.10.2018 DEPONENT

VERIFICATION:

Verified that the contents of para Nos. 1 to 4 of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been concealed therein.

PLACE: CHANDIGARH

DATED: 05.10.2018 DEPONENT