



Revenue Clerk and Junior Field Investigator etc., online application is to be submitted by 26.07.2017, by filling up the entire information to be followed in the website of the Commission and if the Online application to be submitted after due date and time, they will not be registered.

6. It has been stipulated at condition No. 17 (iv) that the reference of the certificate mentioned in the online application would be examined at the time of scrutiny of the documents.

The advertisement further stipulates that the selection would be made on the basis of preliminary examination and the written examination and thereafter, the final merit list would be prepared on the basis of performance of other candidates, basing upon the performance in the written examination.

It is further evident from the condition stipulated at Condition No.(x) (ii) that candidates seeking the benefit of reservation is to submit the local residential certificate and the Caste Certificate stipulating therein, the Certificate number and the date of application, which has been represented by the candidate at the time of scrutiny of the form.

It is further evident from the condition stipulated that on the basis of submission of the application form filled through online mode, the candidate would be allowed to sit in the examination, but the same would be provisional, depending upon the scrutiny of the testimonies.

7. The petitioner had participated in the selection process and has been allowed to sit in the preliminary as well as the written examination. In the result, he has got 428 marks in the written examination, but, his grievance is that even though he has got higher marks than the last selected candidate under the Scheduled Caste Category, but, not been selected.

8. In the counter affidavit, the stand has been taken that the Caste Certificate has been obtained on 29.07.2017, i.e. after the cut off date of submission of online application i.e. 26.07.2017 and therefore, the same has been treated to be non-fulfillment of the terms and conditions of the Advertisement, resulting into cancellation of the candidature of the petitioner.

9. This Court has appreciated the stand taken by the petitioner, vis-à-vis, the Respondent-Commission

10. This Court thinks it proper to refer to the settled position of law with respect to the consideration of the candidature of the candidate in the

process of selection. The settled position is that a candidate is supposed to enclose all the documents alongwith the application form to be submitted within the date prescribed in the Advertisement, but, here, the requirement for a candidate, is to submit the application through online mode and hence, there was no question of submission of documents alongwith the online application, rather, the requirement for a candidate was to give all details in the application by making reference of the residential certificate or the category of caste or the other particulars and i.e. the reason, the condition has been stipulated in the advertisement that on the basis of the online application, a candidate will be allowed to participate in the process of selection, but that participation would be provisional, subject to scrutiny of the relevant documents and it is only after scrutiny of the documents by the Selection Committee, the final consideration of candidature would be done.

11. It is in this pretext and the condition of the advertisement stipulated therein, the petitioner has been allowed to participate in the preliminary as well the written examination. The petitioner has got 428 marks in the written examination, but on the date of scrutiny of the documents, it was found by the Commission that the petitioner, who is claiming the benefit of reservation but the caste certificate, which ought to have been submitted through online mode, although, it was submitted but the same was issued by the competent authority on 29.07.2017, while the last date of submission of online application was 26.07.2017, therefore, admittedly, the caste certificate was issued on 29.07.2017 and hence, his candidature has been found to be not proper in pursuance to the terms and conditions stipulated in the advertisement.

12. The petitioner is claiming that he has got more marks than the last candidate under the Scheduled Caste category, therefore, he has a right to be selected, but the question, herein, is that he is claiming parity with the other candidates from amongst the candidates belonging to the Scheduled Caste category.

13. The petitioner can claim parity, if he will be found to be at par with the other candidates, parity will only come, if the caste certificate, submitted with the application form by the petitioner would be found to be proper i.e. the condition stipulated to be fulfilled, but since the petitioner has got the caste certificate on 29.07.2017, therefore, he cannot

be treated to be at par with the other candidates in absence of the caste certificate, not obtained on or prior to 26.07.2017.

14. It is not in dispute that if a condition is mentioned in the Advertisement, it is to be strictly adhered to. Reference in this regard will be made to the judgment rendered in the case of *Bedanga Talukdar-Vs.-Saifudaullah Khan and others* reported in (2011) 12 SCC 85, wherein at paragraph 29, it has been held.

*“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.”*

15. In the facts and circumstances, this Court is not inclined to pass any positive direction in favour of the petitioner.

16. Accordingly, the writ petition fails and, is dismissed.

**(Sujit Narayan Prasad, J.)**